




2004 Legislative Implementation Plan

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2004 Legislative Implementation Plan



Washington State Department of Ecology
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SUBSTITUTE HOUSE BILL 2308

Requiring the department of ecology to develop specific criteria for the types of solid wastes that are allowed to be received by inert waste landfills

PROGRAM IMPACTS

This bill requires Ecology to develop criteria for inert waste landfills that allow specific materials to be disposed of in an inert waste landfill that was operational before February 10, 2003, and is located in a county with less than 45,000 residents and receives less than 25 inches of annual rainfall.

RESOURCE IMPACTS

Existing resources will be used to implement this bill.

WORK PLAN

Ecology will review the language of existing rules and work directly with Asotin County staff to implement the requirements of this bill.

Contact person: Mike Hibbler – Solid Waste & Financial Assistance Program, Eastern Regional Office; **Phone:** 509/329-3466; **E-mail:** mhib461@ecy.wa.gov

FINAL BILL REPORT

SHB 2308

C 101 L 04

Synopsis as Enacted

Brief Description: Requiring the department of ecology to develop specific criteria for the types of solid wastes that are allowed to be received by inert waste landfills.

Sponsors: By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Schoesler and Cox).

House Committee on Fisheries, Ecology & Parks

Senate Committee on Natural Resources, Energy & Water

Background: The Department of Ecology (Department) is required to adopt administrative rules that establish the minimum functional standards for landfills. The original rules for landfills were adopted by the Department in 1985. On February 10, 2003, substantial revisions to the rules took effect. New landfills are required to abide by the rule revisions immediately, while existing landfills must satisfy the new requirements over a phased transition period.

Among the changes in the new landfill rules are the criteria for limited purpose landfills that only accept inert waste. The new rules affect both the functional standards for inert waste landfills and the criteria for what can be accepted into an inert waste landfill. A waste material can be accepted into an inert waste landfill only if it satisfies a number of criteria. These include being inflammable, being resistant to biological and chemical degradation, and not being capable of producing a leachate or emission that has a potential negative impact on the environment.

Regardless of the outcome of the tests for inert status, the new rules categorically include a number of waste types into the inert waste category. These are certain cured concretes, certain asphaltic materials, brick and masonry that was used for construction purposes, ceramic materials produced from clay or porcelain, certain glasses, and stainless steel and aluminum.

Summary: Standards for inert waste landfills must be developed to contain, at a minimum, a list of substances that an inert waste landfill may accept if the landfill satisfies certain criteria. Landfills that must be allowed to accept the list of substances are any inert waste landfills that were operational prior to February 10, 2003, and are located in a county with less than 45,000 residents and at a site that receives less than 25 inches of rain annually, based on a five-year average.

The wastes that qualifying inert waste landfills must be allowed to accept include:

- cured concrete, masonry, and asphaltic materials;
- glass, regardless of its composition;
- brick and masonry;
- stainless steel; and
- other materials defined in the Washington Administrative Code.

The Department may prohibit these materials from being disposed of in a qualifying landfill if the materials have been made more dangerous than the inherent material to human health or the environment through exposure to chemical, physical, biological, or radiological substances.

The Department is also directed to work with the owners and operators of inert waste landfills to transition into a limited purpose landfill.

Votes on Final Passage:

House	80	16
Senate	49	0

Effective: June 10, 2004

Roll Calls on a Bill: 2308 (2003-04)

Brief Description: Requiring the department of ecology to develop specific criteria for the types of solid wastes that are allowed to be received by inert waste landfills.

2004 Regular Session

Chamber: HOUSE
Bill No.: SHB 2308
Description: FINAL PASSAGE
Item No.: 9
Transcript No.: 37
Date: 02-17-2004

Yeas: 80 Nays: 16 Absent: 00 Excused: 02

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Clements, Clibborn, Condotta, Conway, Cox, Crouse, DeBolt, Delvin, Dickerson, Eickmeyer, Ericksen, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Sehlin, Shabro, Simpson, D., Sommers, Sullivan, Sump, Talcott, Tom, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representatives Chase, Cody, Cooper, Darneille, Dunshee, Flannigan, Hudgins, Hunt, Hunter, McDermott, Morrell, Morris, Murray, Schual-Berke, Simpson, G., Upthegrove

Excused: Representatives Edwards, Skinner

2004 Regular Session

Chamber: SENATE
Bill No.: SHB 2308
Description: 3RD READING & FINAL PASSAGE
Item No.: 17
Transcript No.: 54
Date: 03-05-2004

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

HOUSE BILL 2483

Modifying the disposition of title fees

PROGRAM IMPACTS

Background: Senate Bill 6072, which passed during the 2003 session, transferred certain vehicle title fees to accounts funding three activities: (1) retrofitting school buses with exhaust emission control devices; (2) locating a tug boat at the entrance of the Strait of Juan de Fuca whose primary mission is to arrest the drift of disabled vessels in order to prevent a spill; and (3) providing funding to the Nickel Account.

After the 2003 session it was found that the language in SB 6072 did not transfer the funds to the appropriate accounts, thus not funding the services that the bill intended to fund. HB 2483 corrects the disposition of title fee revenue to meet the intentions and the appropriations made in SB 6072.

Air Quality Program Impacts

HB 2483 ensures continuation of the funding mechanism and appropriation to retrofit public school buses with exhaust emission control devices and to provide funding for fueling infrastructure to allow school bus fleets to use cleaner, alternative fuels. The Department must continue to manage contracts and grants with local air agencies, qualified vendors and suppliers; continue to initiate and fund retrofits for approximately 8500 existing diesel school buses in Washington; and provide a progress report to the legislative transportation committees on the implementation of the program by December 31, 2004.

Oil Spill Prevention, Preparedness & Response Program Impacts

HB 2483 ensures continuation of a funding mechanism and an appropriation to ensure sufficient funding to maintain a rescue tug at the entrance of the Strait of Juan de Fuca whose primary mission is to arrest the drift of disabled vessels in order to prevent major oil spills; and to complete a technical evaluation to determine if the current tug escort requirements for laden tankers under RCW 88.16.190 should be modified. The Department must report its findings and recommendations to the Governor and appropriate standing legislative committees by January 1, 2005

The funding mechanisms for clean air activities and rescue tug operations expire July 1, 2008.

RESOURCE IMPACTS

HB 2483 ensures biennial appropriations as noted below:

- \$10 million to the Department of Ecology from the air pollution control account primarily for the clean-up of diesel school buses. Note: 85% of the funds must be distributed to air agencies in the state in direct proportion to the amount of existing specified motor vehicle title fees collected within their counties of jurisdiction.
- \$1.4+ million per year from the Vessel Response Account for the Department of Ecology to contract for emergency vessel towing services including provision to fund a rescue tug at the entrance to the Strait of Juan de Fuca.

- \$200,000 to the Department of Ecology from the Oil Spill Prevention Account to complete a study of the current tug escort system.

The appropriations and anticipated revenue should be adequate to meet all obligations of ESSB 6072/HB 2483 through July 1, 2008.

WORK PLAN

Air Quality Program

Work under ESSB 6072 began in the summer 2003. HB 2483 allows those efforts to continue through July 1, 2008. The Air Quality Program will continue to provide technical assistance to local air agencies, OSPI and school districts, provide grants and manage contracts, track and evaluate program implementation as well as facilitate the installation of emission control technology on school buses within the 18 counties that fall outside the jurisdiction of the state's local air agencies. In consultation with local air agencies, school districts and other stakeholders, the Air Quality Program will prepare a progress report to the Legislature by December 31, 2004.

Oil Spill Prevention, Preparedness & Response Program

- We will re-bid and award a four year contract for the rescue tug – June/July 2004.
- Deploy rescue tug at Neah Bay 2004 – 2008 (approximately 200+ days/year).
- Award technical contract for tug escort study – June 2004.
- Complete study and recommendations with stakeholder participation and deliver final tug escort study to Legislature and Governor – January 1, 2005.

Contact person: Stu Clark – Air Quality Program; **Phone:** 360/407-6873;

E-mail: scla461@ecy.wa.gov

Jon Neel – Spill Prevention, Preparedness and Response Program; **Phone:** 360/407-6905;

E-mail: jnee461@ecy.wa.gov

FINAL BILL REPORT

HB 2483

C 200 L 04

Synopsis as Enacted

Brief Description: Modifying the disposition of title fees.

Sponsors: By Representatives Murray and McIntire.

House Committee on Transportation

Senate Committee on Highways & Transportation

Background: Senate Bill 6072, which passed during the 2003 session, transferred some vehicle title fees to accounts funding three activities: (1) retrofitting school buses with exhaust emission control devices; (2) locating a tug boat at the entrance of the Strait of Juan de Fuca whose primary mission is to arrest the drift of disabled vessels in order to prevent a spill; and (3) providing funding to the Nickel Account.

After the 2003 session it was found that the language in SB 6072 did not transfer the funds to the appropriate accounts, thus not funding the services that the bill intended to fund.

Summary: Corrections are made to the disposition of title fee revenue to meet the intentions and the appropriations made in SB 6072.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 1, 2004

Roll Calls on a Bill: 2483 (2003-04)

Brief Description: Modifying the disposition of title fees.

2004 Regular Session

Chamber: HOUSE
Bill No.: HB 2483
Description: FINAL PASSAGE
Item No.: 55
Transcript No.: 36
Date: 02-16-2004
Yeas: 97 Nays: 00 Absent: 01 Excused: 00

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Eickmeyer, Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Absent: Representative

2004 Regular Session

Chamber: SENATE
Bill No.: HB 2483
Description: 3RD READING & FINAL PASSAGE
Item No.: 5
Transcript No.: 51
Date: 03-02-2004

Yeas: 47 Nays: 00 Absent: 01 Excused: 01

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

Absent: Senator Prentice
Excused: Senator Shin

ENGROSSED SUBSTITUTE HOUSE BILL 2488

Developing an electronic product management program

PROGRAM IMPACTS

This legislation requires the Department of Ecology, in consultation with the State Solid Waste Advisory Committee (SWAC), to conduct research and develop recommendations for implementing and financing an electronic product collection, recycling, and reuse program. Ecology will report its findings and recommendations to the Legislature Dec. 15, 2004 and Dec 15, 2005. "Covered Electronic Product," means computer monitors, personal computers, and televisions sold to consumers for personal use.

RESOURCE IMPACTS

Ecology identified the need for .6FTE for FY05 and .5FTE for FY06 to complete the electronic study. The Legislature appropriated \$65,000 for FY05.

WORK PLAN

Working with SWAC, Ecology will convene a workgroup, consisting of the various stakeholders identified in the bill, to assist Ecology in research and the development of recommendations for implementing and financing a covered electronic product, collection, recycling and reuse program. Two reports will be completed for the Legislature, an interim report by December 15, 2004 and a final report by December 15, 2005.

We expect to hire a consultant to facilitate the group process, and possibly to work with existing staff to complete research and develop recommendations for the collection, recycling, and reuse of covered electronic waste.

Contact person: Cullen Stephenson – Solid Waste & Financial Assistance Program;

Phone: 360/407-6103; **E-mail:** cste461@ecy.wa.gov

FINAL BILL REPORT

ESHB 2488

C 194 L 04

Synopsis as Enacted

Brief Description: Developing an electronic product management program.

Sponsors: By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Cooper, Campbell, Hunt, Romero, O'Brien, Chase, Sullivan, Ruderman, Dunshee, Wood and Dickerson).

House Committee on Fisheries, Ecology & Parks

House Committee on Appropriations

Senate Committee on Natural Resources, Energy & Water

Background: Rapidly changing technological advances in the computer and electronics sector have resulted in an increasing number of outdated electronic products. The Environmental Protection Agency estimates that over 20 million personal computers became obsolete in 1998 and only 13 percent were reused or recycled. By 2005, more than 63 million personal computers are projected to be retired according to a recent study by the National Safety Council. Electronic products may contain hazardous materials including lead, mercury, brominated flame retardants, and hexavalent chromium. Cathode ray tubes in computer monitors and video display devices may contain between four to eight pounds of lead.

National and state efforts have been initiated to examine opportunities to recycle and reuse electronic waste and encourage development of products using less toxic substances and more recycled content. Representatives from electronics manufacturers, government agencies, environmental groups and others began meeting in April 2001 to develop a joint plan in the United States for managing used electronic products. The National Electronics Product Stewardship Initiative (NEPSI) goal is to develop a system to maximize collection, reuse and recycling of used electronics, while considering appropriate incentives to design products that facilitate source reduction and reuse and recycling and that reduce toxicity and increase recycled content.

The Department of Ecology (Department) is the state agency assigned the responsibility of managing the state's solid and hazardous wastes. The Department issued a policy notice for managing computer monitors, televisions, and other devices that contain cathode ray tubes (CRTs). Under these regulations, materials designated as hazardous, such as CRTs, must be handled, treated, and recycled differently than universal waste.

The Solid Waste Advisory Committee (SWAC) consists of at least 11 members that provide consultation to the Department regarding solid and dangerous waste handling, recycling, and resource recovery.

The Environmental Protection Agency administers federal hazardous waste regulations, and exporters of hazardous waste must comply with certain documentation and labeling requirements.

Summary: The Department, in consultation with the SWAC, must research information regarding the collection, recycling, and reuse of electronic products. Covered electronic products include all computer monitors, personal computers, and televisions sold to consumers for personal use. The Department must identify and evaluate existing projects and encourage new pilot projects to allow evaluation of a variety of factors including urban versus rural programs, a diversity of financing types, and the impact of approaches on local governments and other stakeholders.

The Department must work with the Environmental Protection Agency and other stakeholders to determine the amount of electronic waste exported from Washington that is subject to federal reporting requirements.

The Department must also review data on health and environmental impacts from electronic waste, review existing programs and infrastructure for electronic product reuse and recycling, compile information regarding manufacturers' electronic product collection and recycling programs, and report findings and recommendations to the Legislature by December 15, 2004, and December 15, 2005.

These programs expire December 31, 2005. The recommendations must include a description of what could be accomplished voluntarily, and what legislation may be needed to implement a statewide collection, recycling and reuse plan for electronic products.

Votes on Final Passage:

House	94	0	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 10, 2004

Roll Calls on a Bill: 2488 (2003-04)

Brief Requiring electronic product management.
Description: **Revised for 1st Substitute:** Requiring electronic product management.
(REVISED FOR PASSED LEGISLATURE: Developing an electronic product management program.)

2004 Regular Session

Chamber: HOUSE
Bill No.: ESHB 2488
Description: FINAL
PASSAGE

Item No.: 69

Transcript No.: 36

Date: 02-16-2004

Yeas: 94 Nays: 00 Absent: 00 Excused: 04

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wood, Woods, and Mr. Speaker

Excused: Representatives Edwards, Mielke, Skinner, Wallace

2004 Regular Session

Chamber: SENATE
Bill No.: ESHB 2488
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE
SENATE

Item No.: 16

Transcript No.: 52

Date: 03-03-2004

Yeas: 48 Nays: 00 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

Excused: Senator Shin

2004 Regular Session

Chamber: SENATE
Bill No.: ESHB 2488
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE
SENATE
Item No.: 24
Transcript No.: 52
Date: 03-03-2004

Yeas: 48 Nays: 00 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio,
Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale,
Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson,
Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton,
Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice,
Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B.,
Sheldon, T., Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

Excused: Senator Shin

2004 Regular Session

Chamber: HOUSE
Bill No.: ESHB 2488
Description: FP AS AMD BY THE
SENATE
Item No.: 10
Transcript No.: 59
Date: 03-10-2004

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey,
Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell,
Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway,
Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee,
Eickmeyer, Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins,
Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi,
Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin,
McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke,
Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien,
Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller,
Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-
Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Skinner, Sommers,
Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood,
Woods, and Mr. Speaker

Excused: Representative Edwards

SUBSTITUTE HOUSE BILL 2504

Concerning water policy in regions with regulated reductions in aquifer levels

PROGRAM IMPACTS

The bill requires the Department of Ecology to enter into agreements with the United States and irrigation districts for allocating conserved water to areas within the boundaries of the Columbia Basin Project with declining aquifer levels. Ecology must also issue superseding water right permits or certificates for ground water rights for which federal conserved water is provided as a substitute supply. Ecology is also authorized to provide irrigation districts within the project with aquifer drawdown data.

The objective of this project is to reduce the rate of declines of ground water levels within parts of the Odessa Ground Water Sub-Area that are susceptible to receiving water from the federal Columbia Basin Project. This will lengthen the economic life of the aquifer and provide an alternate source of water to irrigation operators whose existing water supplies are diminishing or are becoming uneconomic due to increasing pumping lift.

RESOURCE IMPACTS

No new revenue or resources were provided to implement the bill. Even prior to the bill's passage, Ecology was in discussions with the U. S. Bureau of Reclamation and the irrigation districts within the project regarding possible transfer of water savings to areas within the Odessa Ground Water Sub-Area with severe aquifer level declines. The bill will be implemented using existing resources and staff, including the processing of water right change applications sometime in the future as water is provided to Odessa irrigators.

WORK PLAN

Ecology's Eastern Regional Office is engaged in continuing discussions with the Bureau of Reclamation and the irrigation districts regarding the project. An agreement is expected to be concluded among the Bureau, the districts and Ecology in summer, 2004.

Ecology will provide all data in its possession regarding current and historical ground water levels within the areas that could be assisted by the project. This will be accomplished by August, 2004. As additional data comes into Ecology's possession, the data will be shared with the Bureau and districts.

Using these and other data at their disposal, the Bureau and irrigation districts will identify the irrigated lands within the western-most portion of the Odessa Sub-Area that are most in need of receiving water from the federal project and which are owned by persons willing to sign water service agreements to receive federally supplied water. The Bureau will enter water service agreements with interested land-owners and will design and construct conveyance facilities for providing those land-owners with project water. It is not known when construction will be completed and is unpredictable at this time.

Ecology will modify the ground water right permits and certificates of those persons who agree to receive project water. The superseding permits and certificates will reclassify the existing ground water rights of the project water recipients as standby or reserve

water rights that will only be used when project water is curtailed or otherwise unavailable. Irrigation of more land than was previously irrigated will be prohibited through the inclusion of conditions in the superseding documents in accordance with the bill. Ecology will also determine whether the water rights of the Bureau of Reclamation require modification as to the place of use of water. A completion date for this phase is dependent upon the completion of water service agreements and construction of facilities and is therefore unknown and unpredictable at this time.

No rules or rule amendments are required to implement the bill. At some future point, Ecology may elect to amend the existing Odessa Ground Water Sub-Area rules (Chapter 173-130A WAC) to reflect the provision of water from outside the sub-area, but it is not required immediately.

Contact person: Keith Stoffel – Water Resources Program, Eastern Regional Office;
Phone: 509/329-3464; **E-mail:** ksto461@ecy.wa.gov

FINAL BILL REPORT

SHB 2504

C 195 L 04

Synopsis as Enacted

Brief Description: Concerning water policy in regions with regulated reductions in aquifer levels.

Sponsors: By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Schoesler, Grant, Holmquist, Cox, Newhouse, Hinkle, Chandler, Sump and McMorris).

House Committee on Agriculture & Natural Resources
Senate Committee on Natural Resources, Energy & Water

Background: A water right may be forfeited for non-use. The forfeiture may be found under common law principles of abandonment or may result from the application of state statutes on relinquishment. The relinquishment laws provide exemptions from their forfeiture requirements. Exempted from relinquishment is the non-use of standby or reserve waters that are to be used in time of drought or other low flow periods as long as the withdrawal or diversion facilities for the right are maintained in good operating condition.

The DOE has adopted rules establishing the Odessa Groundwater Management Subarea (Subarea). Part of the Subarea includes lands within the boundaries of the federal Columbia Basin Project (Project). The management policy for the Subarea establishes an authorized, regulated rate of decline in the level of the area's aquifer. The aquifer level was originally allowed to decline 30 feet every three years. However, the spring static water table, as measured before pumping for irrigation, is prohibited from being lowered more than 300 feet below the altitude of the static water level as it existed in the spring of 1967.

Summary: Agreements. The Legislature intends the DOE to enter into agreements with the United States and Project irrigation districts regarding the allocation of water conserved from within the currently served areas to deep well irrigated lands within the federal Project and for other authorized Project beneficial uses. The DOE may provide the districts with data identifying areas with the most serious ground water depletions. The irrigation districts must consider and may rely on the DOE's data and recommendations in making allocation decisions to offset groundwater withdrawals consistent with the operational constraints of the distribution system.

Policy. Circumstances are identified under which permits and certificates for rights to use water from an aquifer in an adopted groundwater management subarea must be revised as a condition for the delivery of certain federal Project waters. The DOE must issue a superseding water right permit or certificate for such a groundwater right if water from the federal Project is delivered for use by a person who holds such a groundwater right. The superseding water right permit or certificate must designate the portion of the groundwater right that is replaced by water from the federal Project

as a standby or reserve right that may be used when water delivered by the federal Project is curtailed or otherwise not available. The period of curtailment or unavailability is deemed a low flow period under the state's relinquishment laws. The total number of acres irrigated by the person under the groundwater right and through the use of the Project's water must not exceed the quantity of water used and number of acres irrigated under the person's water right permit or certificate for the use of water from the aquifer.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: June 10, 2004

Roll Calls on a Bill: 2504 (2003-04)

Brief Description: Concerning water policy in regions with regulated reductions in aquifer levels.

2004 Regular Session

Chamber: HOUSE
Bill No.: SHB 2504
Description: FINAL
PASSAGE
Item No.: 59
Transcript No.: 31
Date: 02-11-2004

Yeas: 94 Nays: 00 Absent: 00 Excused: 04

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Edwards, Flannigan, Skinner, Veloria

2004 Regular Session

Chamber: SENATE
Bill No.: SHB 2504
Description: 3RD READING & FINAL
PASSAGE
Item No.: 9
Transcript No.: 52
Date: 03-03-2004

Yeas: 48 Nays: 00 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

Excused: Senator Shin

HOUSE BILL 2598

Providing venue for administrative rule challenges in Spokane, Yakima, and Bellingham for residents of those appellate districts

PROGRAM IMPACTS

This bill amends the Administrative Procedure Act to allow petitions to be heard in Spokane, Yakima or Thurston Counties if the primary place of residence or primary place of business is in the third division. If the primary place of residence or primary place of business is located in District 3 of the First Division then the petition may be filed in Whatcom or Thurston County.

RESOURCE IMPACTS

This bill has the potential of adding minor additional costs to the Agency. The bill allows for Superior Court cases to be heard in counties other than Thurston County. This does increase the travel costs to the Agency. In addition, it is possible that the number of court cases may increase.

WORK PLAN

No work plan is necessary to implement this bill.

Contact person: Jerry Thielen – Governmental Relations/Rules Unit;

Phone: 360/407-7551; **E-mail:** jthi461@ecy.wa.gov

FINAL BILL REPORT

HB 2598

C 30 L 04

Synopsis as Enacted

Brief Description: Providing venue for administrative rule challenges in Spokane, Yakima, and Bellingham for residents of those appellate districts.

Sponsors: By Representatives Grant, Holmquist, Linville, Kessler, Quall, Clements, Ahern, Cox, Sehlin, Morris, Priest, Kristiansen, Nixon, Santos, Buck, Wallace, Orcutt, Armstrong, Clibborn, Chandler, Schoesler, Sump, Bush, Jarrett, Kenney, Hatfield, Lovick, Eickmeyer, O'Brien, Blake, Ruderman, Skinner, Hinkle, Newhouse, Anderson, Schindler, Tom, Wood, Hankins, McMahan and Condotta; by request of Governor Locke.

House Committee on Judiciary

Senate Committee on Government Operations & Elections

Background: The Administrative Procedure Act (APA) details procedures state agencies are required to follow when adopting rules. Generally, a rule is any agency order, directive, or regulation of general applicability that: (1) subjects a person to a sanction if violated; or (2) establishes or changes any procedure or qualification relating to agency hearings, benefits, or privileges conferred by law; licenses to pursue any commercial activity, trade, or profession; or standards for the sale or distribution of products or materials. Before adopting a rule, an agency must follow specified procedures, including publishing notice in the state register and holding a hearing.

Under the APA, the validity of any rule adopted by an agency may be challenged by a petition for declaratory judgment when it appears the rule or application of the rule interferes with or impairs the legal rights or privileges of the petitioner. The court may declare a rule invalid only if it finds that the rule: (1) violates the constitution; (2) exceeds the statutory authority of the agency; (3) was adopted without compliance with rule-making procedures; or (4) is arbitrary and capricious.

The petition for declaratory judgment on the validity of an agency rule must be filed in Thurston County Superior Court.

In 2003 the Legislature passed ESHB 1530, which allowed a petitioner to seek a declaratory judgment challenging an agency rule in the superior courts of Clark, Spokane, or Whatcom counties, in addition to Thurston County. The Governor vetoed the legislation, but in his veto message suggested other possibilities.

Summary: A petitioner who resides or has a principal place of business within the geographical boundaries of Division III of the Court of Appeals (the 20 counties east of the Cascades) may file a petition for declaratory judgment challenging an agency rule in the superior court of either Spokane, Yakima, or Thurston County.

A petitioner who resides or has a principal place of business within the geographical boundaries of district three of Division I of the Court of Appeals (Whatcom, Skagit, San Juan, and Island counties) may file a petition for declaratory judgment challenging an agency rule in the superior court of either Whatcom or Thurston County.

This provision allowing a petition to be filed in these counties other than Thurston County expires on July 1, 2008.

Votes on Final Passage:

House	85	8
Senate	47	1

Effective: June 10, 2004

Roll Calls on a Bill: 2598 (2003-04)

Brief Description: Providing venue for administrative rule challenges in Spokane, Yakima, and Bellingham for residents of those appellate districts.

2004 Regular Session

Chamber: HOUSE

Bill No.: HB 2598

Description: FINAL PASSAGE

Item No.: 62

Transcript 31

No.:

Date: 02-11-2004

Yeas: 85 Nays: 08 Absent: 00 Excused: 05

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Delvin, Dunshee, Eickmeyer, Ericksen, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunter, Jarrett, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Shabro, Simpson, D., Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representatives Chase, Cooper, Dickerson, Hunt, Kagi, McDermott, Romero, Simpson, G.

Excused: Representatives Edwards, Flannigan, Sehlin, Skinner, Veloria

2004 Regular Session

Chamber: SENATE

Bill No.: HB 2598

Description: 3RD READING & FINAL PASSAGE

Item No.: 3

Transcript No.: 54

Date: 03-05-2004

Yeas: 47 Nays: 01 Absent: 01 Excused: 00

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Winsley, Zarelli

Voting nay: Senator Thibaudeau

Absent: Senator Hewitt

HOUSE BILL 2683

Changing provisions relating to providing notice of proposed rule changes

PROGRAM IMPACTS

This bill has little fiscal impact on the Agency, rather it will help streamline and simplify several processes related to agency rule making.

The pilot test described in this bill allows filings to be sent to the Joint Administrative Rules Review Committee (JARRC) electronically. We estimate that currently we send an average of 20 filings to JARRC in a year. At this time three copies are required. This bill allows us to prevent printing about 60 copies a year. It also allows us to share information with JARRC in a more timely manner.

This bill also allows summaries of the filings required in RCW 34.05.320, 350, and 353 to be sent to interested parties instead of copies of the form filed with the Code Reviser. As stated in the assumptions above, Ecology is already preparing summary documents to be available with the actual filing. In situations where this is mailed out to interested parties, both the official filing and the summary documents are sent out as a packet of "rule-making information". In most cases, Ecology will continue to follow this practice. However, the bill provides Ecology with more flexibility in how to present rule-making information to interested parties.

RESOURCE IMPACTS

No additional revenue will be required to implement this bill. Ecology is participating in the pilot project being organized by the Office of Regulatory Assistance. Members of the Rules Unit will participate in the pilot and continue to handle filing submittals to JARRC. All necessary documentation, as part of the pilot project, will also be handled by Rules Unit staff.

WORK PLAN

During April, Ecology staff met with other agencies participating in the pilot project to discuss implementation. These meetings will be ongoing throughout the pilot. Since this bill becomes effective June 30, 2004, it is anticipated that the pilot will begin at the same time.

Contact person: Jerry Thielen – Governmental Relations/Rules Unit;

Phone: 360/407-6998; **E-mail:** jthi461@ecy.wa.gov

FINAL BILL REPORT

HB 2683

C 31 L 04

Synopsis as Enacted

Brief Description: Changing provisions relating to providing notice of proposed rule changes.

Sponsors: By Representatives Haigh, Armstrong and Linville; by request of Governor Locke.

House Committee on State Government

Senate Committee on Government Operations & Elections

Background: The Administrative Procedure Act details procedures that state agencies are required to follow when adopting rules.

Pre-notice Inquiry

Agencies are required to solicit comments from the public on proposed rules before filing a notice of proposed rulemaking with the code reviser. The agency is required to prepare a statement of inquiry that:

- identifies the specific statute or statutes authorizing the agency to adopt rules on this subject;
- states why rules on the subject are needed and what they might accomplish;
- names other federal and state agencies that regulate this subject and describes process for coordination;
- describes the development process of the rule (i.e., negotiated rulemaking, pilot rulemaking, or agency study); and
- specifies how interested parties may participate in the process.

During the prenotice inquiry, agencies are encouraged to reach a consensus among interested parties through negotiated rulemaking, pilot rulemaking, or some other process before the proposed rule is published and an adoption hearing takes place. If such a process is not used, the agency is required to include a written justification in the rulemaking file.

Notice of Proposed Rule

When an agency is ready to hold a hearing on a proposed rule, it publishes a notice in the state register at least 20 days before the hearing. The publication constitutes the proposal of a rule. The notice must include such things as a description of the rule's purpose, citations of statutory authority, a summary of the rule or an explanation of whether the rule is the result of federal law or court action, a small business economic impact statement, and a cost benefit analysis, if required.

Agencies must have copies of the notice on file and available for public inspection. No later than three days after its publication in the state register, the agency must mail the notice on proposed rule adoption to each person, city, and county that has made a request for such notices. The notice must also be sent to the Joint Administrative Rules Review Committee (JARRC).

The agency is required to hold a public hearing on the proposed rule and must consider, summarize, and respond to any oral and written comments it receives. The agency may then withdraw the rule, modify it, or adopt the rule as proposed.

Interpretive and Policy Statements

Agencies are encouraged to convert long-standing interpretive or policy statements into rules. Any person may petition an agency requesting such a conversion and the agency must either deny the petition in writing, stating reasons for the denial, or initiate rulemaking proceedings. When an agency issues an interpretive or policy statement, it must submit a description of the statement to the Code Reviser for publication in the Washington State Register.

Agencies must maintain a roster of persons who have requested notification of interpretive and policy statements and must update the roster on a yearly basis. Copies of interpretive and policy statements are sent to the persons on the roster, and agencies may charge a nominal fee for this service.

Expedited Rulemaking

An expedited rule adoption process was established in 1997. Rules may be adopted under this process without preparation of a small business economic impact statement, publishing a statement indicating whether the rule constitutes a significant legislative rule, preparing a significant legislative rule analysis, making a pre-notice inquiry, or conducting a hearing. Notice is published indicating the use of the expedited rule adoption process. If any person files written objections to the use of this process within 45 days of the publishing of the notice, the use of the expedited rule adoption process stops, and the agency may proceed to adopt the proposed rules following the regular rule adoption process.

The expedited rule adoption process is generally limited to rules that do not have an effect on the general public, that are explicitly and specifically dictated by statute, and that, by reference, adopt changes in other laws or rules.

Summary: Pre-notice Inquiry At the time the statement of inquiry is filed with the Code Reviser for publication, agencies have an option to provide the statement of inquiry, or a summary of the information contained in the statement, to those who have requested statements of inquiry.

Notice of Proposed Rule

A pilot project is established requiring at least 10 agencies, including the departments of Labor and Industries, Fish and Wildlife, Revenue, Ecology, Retirement Systems, and Health, to file copies of the notice of a proposed rule, including emergency rules and amendments and expedited adoption of rules, to the JARRC by electronic means

for a period of four years. The Office of Regulatory Assistance must negotiate the details of the pilot among the agencies, the Legislature, and the Code Reviser.

Interpretive and Policy Statements

The requirement that agencies update the roster of persons requesting notifications of interpretive and policy statements on a yearly basis are changed to update the roster periodically.

Expedited Rulemaking

At the time the notice of expedited rulemaking is filed with the Code Reviser for publication, agencies have an option to send either the notice or a summary of the information in the notice to persons requesting notification of proposals for expedited rulemaking or of regular rulemaking.

Votes on Final Passage:

House	93	0
Senate	45	0

Effective: June 10, 2004

Roll Calls on a Bill: 2683 (2003-04)

Brief Description: Changing provisions relating to providing notice of proposed rule changes.

2004 Regular Session

Chamber: HOUSE

Bill No.: HB 2683

Description: FINAL PASSAGE

Item No.: 63

Transcript No.: 31

Date: 02-11-2004

Yeas: 93 Nays: 00 Absent: 00 Excused: 05

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Shabro, Simpson, D., Simpson, G., Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Edwards, Flannigan, Sehlin, Skinner, Veloria

2004 Regular Session

Chamber: SENATE

Bill No.: HB 2683

Description: 3RD READING & FINAL PASSAGE

Item No.: 35

Transcript No.: 52

Date: 03-03-2004

Yeas: 45 Nays: 00 Absent: 02 Excused: 02

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

Absent: Senators Deccio, Kastama

Excused: Senators Fraser, Shin

SUBSTITUTE HOUSE BILL 2781

*Changing revisions relating to expedited state
agency review of development regulations*

PROGRAM IMPACTS

This bill provides for expedited review by state agencies of local government development regulations. The bill adds the following paragraph to the Growth Management Act (GMA) at RCW 36.70A.106:

Each county and city planning under this chapter may request expedited review for any amendments for permanent changes to a development regulation. Upon receiving a request for expedited review, and after consultation with other state agencies, the department may grant expedited review if the department determines that expedited review does not compromise the state's ability to provide timely comments related to compliance with the goals and requirements of this chapter or on other matters of state interest. Cities and counties may adopt amendments for permanent changes to a development regulation immediately following the granting of the request for expedited review by the department.

This is not expected to change the way Ecology reviews development regulations. The Department of Community, Trade, and Economic Development is developing procedures that will function within the current GMA review system. Ecology will continue to receive notice of development regulations and will reply as necessary.

RESOURCE IMPACTS

No resource impacts are expected. Existing staff are already assigned to review GMA development regulations.

WORK PLAN

None needed.

Contact person: Tom Mark – Shoreland Environmental Assistance Program,
Phone: 360/407-7540; **E-mail:** tmar461@ecy.wa.gov

FINAL BILL REPORT

SHB 2781

C 197 L 04

Synopsis as Enacted

Brief Description: Changing provisions relating to expedited state agency review of development regulations.

Sponsors: By House Committee on Local Government (originally sponsored by Representatives Upthegrove, Schindler, Jarrett, Clibborn and Schual-Berke).

House Committee on Local Government

Senate Committee on Land Use & Planning

Background: The Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. Counties and cities meeting specific population and growth criteria are required to comply with the major requirements of the GMA. Counties not meeting these criteria may choose to plan under the GMA. Twenty-nine of 39 counties, and the cities within those 29 counties, are required to or have chosen to comply with the major requirements of the GMA (GMA jurisdictions).

GMA jurisdictions must adopt internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land use policy statements of the governing body. GMA jurisdictions also must adopt development regulations that are consistent with and implement the comprehensive plan.

Comprehensive plans and development regulations are subject to continuing review and evaluation by the adopting county or city. With limited exceptions, however, amendments to a comprehensive plan may be considered by the governing body of the local jurisdiction no more frequently than once every year. Additionally, GMA jurisdictions must review and, if needed, revise their comprehensive plans and development regulations according to a statutory schedule.

The Department of Community, Trade, and Economic Development (CTED) provides technical and financial assistance to jurisdictions implementing the GMA. The CTED also adopts procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of the GMA.

Proposed amendments for permanent changes to an adopted comprehensive plan or development regulation must be submitted by the proposing jurisdiction to the CTED at least 60 days prior to final adoption. State agencies, including the CTED, may provide comments to the county or city on the proposed amendment during a public review process prior to adoption. Amendments must be transmitted to the CTED within 10 days after final adoption.

Summary: Counties and cities planning under the Growth Management Act (GMA) may request expedited review for any amendments for permanent changes to a development regulation. The Department of Community, Trade, and Economic Development (CTED) may, after receiving a request and consultation with other state agencies, grant expedited review if the CTED determines that expedited review does not compromise the state's ability to provide timely comments related to compliance with the goals and requirements of the GMA or on other matters of state interest. Counties and cities may adopt amendments for permanent changes to a development regulation immediately following the granting of the request for expedited review.

Votes on Final Passage:

House	93	0
Senate	43	1

Effective: June 10, 2004

Roll Calls on a Bill: 2781 (2003-04)

Brief Description: Changing provisions relating to state agency review of development regulations.
Revised for 1st Substitute: Changing provisions relating to expedited state agency review of development regulations.

2004 Regular Session

Chamber: HOUSE
Bill No.: SHB 2781
Description: FINAL PASSAGE
Item No.: 90
Transcript No.: 36
Date: 02-16-2004

Yeas: 93 Nays: 00 Absent: 00 Excused: 05

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Simpson, D., Simpson, G., Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wood, Woods, and Mr. Speaker

Excused: Representatives Edwards, Mielke, Shabro, Skinner, Wallace

2004 Regular Session

Chamber: SENATE
Bill No.: SHB 2781
Description: 3RD READING & FINAL PASSAGE
Item No.: 14
Transcript No.: 53
Date: 03-04-2004

Yeas: 43 Nays: 01 Absent: 00 Excused: 05

Voting yea: Senators Benton, Brandland, Berkey, Carlson, Deccio, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Sheahan, Sheldon, B., Sheldon, T., Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

Voting nay: Senator Fairley

Excused: Senators Brown, Johnson, McCaslin, Schmidt, Shin

SUBSTITUTE HOUSE BILL 3141

Establishing a policy to mitigate carbon dioxide emissions

PROGRAM IMPACTS

SHB 3141 establishes carbon dioxide (CO₂) mitigation requirements for new or expanded fossil fueled thermal power plants with a generating capacity of 25 megawatts or more.

SHB 3141 requires Ecology to develop rules incorporating the bill's CO₂ mitigation standards, requirements and processes for new power plants into its new source review regulations. The Governor's Office had already directed Ecology to adopt such rules. The statutory policy decisions in SHB 3141 define applicability, mitigation requirements and cost per ton of CO₂ and will simplify the rulemaking effort because most policy decisions that would have confronted the Department have been made in the legislation.

SHB 3141 requires the Department to incorporate CO₂ mitigation plans into existing approval processes for air quality permits for new or expanded electricity generating facilities meeting the definitions in the legislation and to approve and monitor the performance of and compliance with those plans. It is anticipated that the Department would process approximately 2 or 3 permits a year affected by this legislation.

RESOURCE IMPACTS

No additional resources were provided to implement the bill. However, the legislation provides authority for the Department to set fees to cover the expanded scope of permits for affected new power plants and to approve and monitor compliance with CO₂ mitigation plans required as part of those permits.

Because the Governor's Office in 2003 directed the Department to adopt rules to mitigate CO₂ emissions from new power plants, Ecology had planned and budgeted for such a rulemaking process within its current resources and funding levels.

WORK PLAN

- Notify local air agencies and provide technical assistance on the content and implementation of SHB 3141 – Spring 2004
- Provide technical assistance and education as needed to stakeholders and interested public on the content and effect of SHB 3141 – On going
- Propose rules to establish processes and set fees to implement SHB 3141 – Summer 2004
- Adopt final rules that implement SHB 3141 – Winter 2004

Contact person: Stu Clark – Air Quality Program; **Phone:** 360/407-6873;

Email: sclar461@ecy.wa.gov

FINAL BILL REPORT

SHB 3141

C 224 L 04
Synopsis as Enacted

Brief Description: Establishing a policy to mitigate carbon dioxide emissions.

Sponsors: By House Committee on Technology, Telecommunications & Energy
(originally sponsored by Representative Morris).

House Committee on Technology, Telecommunications & Energy
Senate Committee on Natural Resources, Energy & Water

Background: The Energy Facility Site Evaluation Council (EFSEC) was created in 1970 to provide one-stop licensing for large energy projects. EFSEC membership includes mandatory representation from five state agencies and discretionary representation from four additional state agencies. EFSEC membership may include representatives from the particular city, county, or port district where potential projects may be located.

The EFSEC's jurisdiction includes the siting of electric thermal power plants above 350 megawatts. In 2003, the EFSEC released a package of proposed rules designed to set standards for siting electric power plants. One of the proposed rules addresses the mitigation of carbon dioxide (CO₂) emissions resulting from operation of these plants. CO₂ mitigation requirements have been included in all recent siting approvals for electric power plants.

New or expanding industrial and commercial sources of air pollution emissions, including fossil-fueled thermal power plants, must obtain an order of approval from the Department of Ecology (DOE) or a local air pollution control authority. The order may set limits on emissions and require monitoring, record keeping, reporting, and other compliance measures.

The DOE is also developing rules for the mitigation of CO₂ emissions from fossil fueled thermal electric power plants not under the siting jurisdiction of the EFSEC.

Summary:

CO₂ Mitigation Requirements. Fossil-fueled thermal power plants with a generating capacity of 25 megawatts or more must provide mitigation for 20 percent of the CO₂ emissions produced by the plant over a period of 30 years. This requirement applies to new power plants seeking site certification or an order of approval after July 1, 2004, and existing plants that increase the production of CO₂ emissions by 15 percent or more.

This mitigation requirement applies to thermal power plants under the jurisdiction of the EFSEC, except for floating thermal power plants of 100 megawatt capacity or more. The requirement also applies to thermal power plants that must seek an order

of approval from either the DOE or a local air pollution control authority if the plant has a generating capacity of less than 350 megawatts but more than 24 megawatts.

In determining total CO₂ emissions, the calculation uses a capacity factor of 60 percent or operational limitations contained in the order of approval (for plants not under the jurisdiction of the EFSEC).

For plants that must seek site certification under the EFSEC, a CO₂ mitigation plan must be included in a site certification agreement. For plants that apply for approval from the DOE or an air pollution control authority, an approved CO₂ mitigation plan must be included as part of the order.

CO₂ Mitigation Options. CO₂ may be mitigated by making payment to an independent qualified organization, by direct purchase of permanent carbon credits, or by direct investment in CO₂ mitigation projects.

Payment to a Third Party Option. The rate that must be paid per ton for those CO₂ emissions that must be mitigated is \$1.60. This rate is subject to adjustment. For cogeneration plants, the monetary amount is based on the difference between 20 percent of total carbon dioxide emissions and the cogeneration credit. Payment may be made in a lump sum no later than 60 days prior to the start of construction or in partial payments over five years. Partial payments are paid in equal annual amounts and are also subject to adjustment.

The EFSEC may adjust the per ton rate every two years and any increase or decrease may not exceed 50 percent of the current rate. The DOE or local air pollution control authorities must use the adjusted rate established by the EFSEC.

Carbon Credit Option. Credits must come from real, permanent, verifiable CO₂ mitigation not otherwise required or used for other CO₂ mitigation projects. Credits eligible for mitigation must be acquired after July 1, 2004. Credits may be resold only with the approval of the EFSEC, the DOE, or a local air pollution control authority.

Direct Investment Option. Mitigation projects must be approved by the EFSEC, the DOE, or a local air pollution control authority and must be included in the site certification agreement or the order of approval. Direct investments are limited in amount to no more than the cost of a lump sum payment option. Projects must be in place in a reasonable time after the start of commercial operation. Implementation will be monitored by an independent entity for applicants under the jurisdiction of the EFSEC, and by the DOE or a local air pollution control authority for applicants not under the jurisdiction of the EFSEC, except for carbon credits. No more than 20 percent of the funds may be used for selection, monitoring, and evaluation of the mitigation project.

Independent Qualified Organization. The EFSEC must maintain a list of independent qualified organizations. No more than 20 percent of the funds may be used for selection, monitoring, and evaluation of the mitigation project. The organization must permit the EFSEC to appoint three persons to inspect plans, operations, and compliance activities of the organization and audit financial records and performance standards. The organization must file biennial reports with the EFSEC and the DOE.

Mitigation projects under both the payment to a third party option and direct investment option must: (1) provide a reasonable certainty that the performance requirements will be achieved; (2) be implemented after July 1, 2004; (3) minimize the extent to which external events can reduce the amount of CO2 offset; (4) accomplish CO2 reductions that would not otherwise take place; and (5) provide for mitigation of an appropriate duration.

Reasonable and necessary costs for implementing this program must be assessed against the applicants and site certification holders subject to this requirement. The DOE or local air pollution control authority may assess and collect fees to administer this program. The EFSEC, the DOE, and local air pollution control authority may adopt rules to implement the program.

Votes on Final Passage:

House	69	27
Senate	40	6 (Senate amended)
House	69	26 (House concurred)

Effective: June 10, 2004

Roll Calls on a Bill: 3141 (2003-04)

Brief Description: Establishing a policy to mitigate carbon dioxide emissions.

2004 Regular Session

Chamber: HOUSE
Bill No.: SHB 3141
Description: FINAL
PASSAGE

Item No.: 11

Transcript No.: 37

Date: 02-17-2004

Yeas: 69 Nays: 27 Absent: 00 Excused: 02

Voting yea: Representatives Alexander, Anderson, Bailey, Benson, Blake, Bush, Campbell, Chase, Clibborn, Cody, Conway, Cooper, Crouse, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Grant, Haigh, Hatfield, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Priest, Quall, Rockefeller, Romero, Rodne, Ruderman, Santos, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Sommers, Sullivan, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representatives Ahern, Armstrong, Boldt, Buck, Cairnes, Carrell, Chandler, Clements, Condotta, Cox, Delvin, Hankins, Hinkle, Holmquist, Kristiansen, McMahan, McMorris, Mielke, Newhouse, Nixon, Orcutt, Pearson, Roach, Schindler, Schoesler, Sump, Talcott

Excused: Representatives Edwards, Skinner

2004 Regular Session

Chamber: SENATE
Bill No.: SHB 3141
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE
SENATE

Item No.: 36

Transcript No.: 52

Date: 03-03-2004

Yeas: 40 Nays: 06 Absent: 00 Excused: 03

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Eide, Esser, Fairley, Finkbeiner, Franklin, Hale, Haugen, Hewitt, Horn, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Spanel, Swecker, Thibaudeau, Winsley, Zarelli

Voting nay: Senators Doumit, Hargrove, Honeyford, Johnson, Roach, Stevens

Excused: Senators Deccio, Fraser, Shin

2004 Regular Session

Chamber: HOUSE
Bill No.: SHB 3141
Description: FP AS AMD BY THE
SENATE
Item No.: 13
Transcript No.: 58
Date: 03-09-2004

Yeas: 69 Nays: 26 Absent: 00 Excused: 03

Voting yea: Representatives Alexander, Anderson, Bailey, Benson, Blake, Boldt, Buck, Bush, Chase, Clibborn, Cody, Conway, Cooper, Crouse, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Fromhold, Grant, Haigh, Hatfield, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Sommers, Sullivan, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representatives Ahern, Armstrong, Cairnes, Carrell, Chandler, Clements, Condotta, Cox, Delvin, Ericksen, Hankins, Hinkle, Holmquist, Kristiansen, McMahan, McMorris, Mielke, Newhouse, Nixon, Orcutt, Pearson, Schindler, Schoesler, Skinner, Sump, Talcott

Excused: Representatives Campbell, Edwards, Flannigan

SUBSTITUTE SENATE BILL 5590

Determining the appeals period for certain environmental appeals

PROGRAM IMPACTS

The Environmental Hearings Office requested passage of this bill to unify appeal periods and eliminate inconsistencies in calculating the statute of limitations for applications for relief and for Pollution Control Hearings Board actions. In addition to timeliness, the bill also makes changes in identifying who may bring appeals. These changes and the implications for implementation are identified below.

The amendments modify Chapter 43.21B RCW, setting the deadline for filing appeals at 30 days from the date of receiving any of the following:

1. Boards final decision and order (RCW 43.21B.190);
2. Agency's notice of denial, order or determination (RCW 43.21B.230);
3. Agency's notice of penalty under certain statutory provisions (RCW 43.21B.300);
4. Agency's notice of issuing a permit, a certificate, or a license (RCW 43.21B.310);
or
5. Local Air Authority's notice of order (RCW 43.21B. 310).

The amended statute defines "date of receipt" as one of two dates: either five (5) business days after the date of mailing or the date of actual receipt as proven by a preponderance of the evidence. The actual date or receipt is not to exceed 45 days from the date of mailing.

Under RCW 43.21B.300(1) most penalties Ecology issues must be delivered by certified mail with return receipt or by personal service. Some program-specific statutes, such as RCW 90.48.120(2), require enforcement orders also be delivered by certified mail with the return receipt or by personal service. SSB 5590 does not amend separate statutory requirements; therefore, Ecology programs should retain existing procedures for delivering orders and penalties. Either certified mail with return receipt or personal service will document the date of receipt as well as the date of mailing and can be used to determine compliance with the statutory appeal period.

The statutory changes to appeal timing will require Ecology to update the various notices that include appeal language. Ecology will also need to be responsive to any changes that the PCHB may make to its rules on appeal timing.

By amending only RCW 43.21B, SSB 5590 does not amend those statutes that have their own deadlines, e.g. the Shoreline Management Act (RCW 90.58) and the State Environmental Policy Act (RCW 43.21C). These other deadlines will continue to be effective.

The bill also revises the deadline for application for relief from penalty from fifteen days to thirty days from receipt of the notice. Various Ecology notices relating to penalties will also require amending to bring them up to date with the statute.

Previous drafts of the bill defined “aggrieved party” and “parties of record” to clarify who could appeal an agency decision. The enacted version does not contain this language and removes the reference to “interested parties” in RCW 42.21B.190. No explicit legislative intent indicates this change should overturn existing case law in this area, e.g. *Den Beste v. PCHB*, 81 Wn. App. 330 (1996). Therefore, Ecology’s notice procedures should remain in place providing notice to anyone who has requested it.

RESOURCE IMPACTS

No new revenue or resources were provided to implement the bill, nor does implementation of the bill require extensive new work. The principal work arising from the bill is that the Department, the air authorities and the PCHB will need to amend boilerplate appeal language. For instance, Ecology is required to notify recipients that a decision is appealable under RCW 43.21B.310(6). The existing notification language will need to be modified to reflect the statutory changes to the appeal period.

WORK PLAN

The statutory changes become effective on June 10, 2004. All necessary changes to materials advising individuals of appeal periods must be made prior to this date. However, the existing language needs to remain in place until the changes take effect on June 10. Each Ecology program must review its appeal language and penalty relief language in various notices and update them by June 10 and then put them into effect on June 10. Assistance and advice will be sought from the Attorney General’s Office as needed.

Ecology will also need to consider modifying several rules that will become inconsistent with the statute including WAC 173-495-100(3), 173-224-100, and 173-401-735(2). Most agency rules simply refer to RCW 43.21B, thereby avoiding the need for amendment.

No new hiring will be required.

Ecology will notify the air authorities of the potential need to modify their appeal language and will check with the PCHB to assure the Board is aware of this change in law.

These actions will take place prior to the law taking effect in June, 2004.

Contact person: Kenneth Slattery – Water Resources Program;

Phone: 360/407-6603; E-mail: kshw461@ecy.wa.gov

FINAL BILL REPORT

SSB 5590

C 204 L 04

Synopsis as Enacted

Brief Description: Determining the appeals period for certain environmental appeals.

Sponsors: Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton, Fraser, Honeyford, Hewitt, Doumit and Regala; by request of Environmental Hearings Office).

Senate Committee on Natural Resources, Energy & Water
House Committee on Judiciary

Background: Under current law, different statutes govern appeals to the Pollution Control Hearings Board of agency actions, civil penalties, and orders, permits, or licenses, as well as appeals from decisions and orders of the board. The statutes are not consistent regarding the period in which an appeal can be filed. In some, the period starts when notice is mailed. In others, the period starts when notice is received.

Summary: The period for appealing decisions of the Pollution Control Hearings Board to superior court and for appealing civil penalties, orders, permits, and other actions to the board is within 30 days of the date of receipt of notice. Date of receipt means either five business days after the date of mailing or the date of actual receipt, if it can be proved by a preponderance of the evidence and is not later than 45 days from the date of mailing. A sworn affidavit or declaration is sufficient evidence, if unchallenged.

Votes on Final Passage:

Senate	48	0
House	95	1

Effective: June 10, 2004

Roll Calls on a Bill: 5590 (2003-04)

Brief Description: Determining the appeals period for certain environmental appeals.

2004 Regular Session

Chamber: SENATE
Bill No.: SSB 5590
Description: 3RD READING & FINAL PASSAGE
Item No.: 39
Transcript No.: 33
Date: 02-13-2004

Yeas: 48 Nays: 00 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Winsley, Zarelli

Excused: Senator Thibaudeau

2004 Regular Session

Chamber: HOUSE
Bill No.: SSB 5590
Description: FINAL PASSAGE
Item No.: 13
Transcript No.: 52
Date: 03-03-2004

Yeas: 95 Nays: 01 Absent: 00 Excused: 02

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Skinner, Sommers, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representative McMahan

Excused: Representatives Eickmeyer, Sullivan

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5957

*Establishing a system of standards and
procedures concerning water quality data*

PROGRAM IMPACTS

The bill describes the importance of using quality data for decisions related to water cleanup plans (TMDLs) and determining if water bodies are not meeting water quality standards. It describes what should be used to determine if data is credible and requires the state to develop a policy that defines how data is collected and used.

RESOURCE IMPACTS

Through the supplemental budget process, Ecology received \$218,000 which will support 2 FTEs to complete this work.

WORK PLAN

The Water Quality Program will be lead on the process to develop the policy and working with external stakeholders (1 FTE). The Environmental Assistance Program (EAP) will provide technical support to the process (1 FTE).

Ecology will pull together an internal steering committee to help guide the development of the credible data policy. This committee will consist of EAP staff, Water Quality staff including the financial assistance program, and a representative that can represent Environmental Information Management.

Ecology will brief the key proponents of this bill prior to initiating any work and then will develop a more formal external steering committee to assist with the development of the policy. The final policy will lay out how the rest of this bill will be implemented.

- Draft policy out for formal public review by January 2005
- Goal of having final policy done by July 2005
- Goal of filling 2 positions by July 2004

Contact person: Melissa Gildersleeve – Water Quality Program;

Phone: 360/407-6461; **E-mail:** mgil461@ecy.wa.gov

FINAL BILL REPORT

E2SSB 5957

C 228 L 04

Synopsis as Enacted

Brief Description: Establishing a system of standards and procedures concerning water quality data.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Rasmussen, Morton, Swecker, Doumit, Sheahan, Oke and Brandland).

Senate Committee on Natural Resources, Energy & Water

Senate Committee on Ways & Means

House Committee on Agriculture & Natural Resources

House Committee on Appropriations

Background: The federal Clean Water Act requires states to report on the quality of water bodies and to list those that are impaired. For those listed as impaired, a Total Maximum Daily Load (TMDL) must be prepared, regulating the amounts of pollutants that may be discharged and allocating the amounts among their sources. To accomplish these requirements, states evaluate existing and readily available water quality data and information and determine which data they will rely upon. The governing federal regulation requires quality assurance and control programs to assure scientifically valid data.

Summary: The need to obtain data from various available sources, so long as it meets requirements for quality, is affirmed.

Credible information and literature must be used in the process of establishing any total maximum daily load. Credible data must be used for listing waters whose beneficial uses are impaired by pollutants, developing total maximum daily loads for impaired waters, or determining whether beneficial uses are being supported. The Department of Ecology is required to acknowledge questions regarding the information and data it has used within five days and provide a reasonable estimate of when it will answer.

For water quality data to be considered credible, quality control procedures must be followed and documented, data must be representative of conditions at the time of collection, the number of samples must be adequate for the water and the parameters being analyzed, and protocols generally accepted in the scientific community must be used for the sampling and analysis. The department is required to adopt policy regarding qualifications for collecting data, determination of credibility, and explanation of methodology.

Knowing falsification of data is a gross misdemeanor.

The department must give a progress report by December 31, 2005 and a report on development of rule-making or policy by December 31, 2006.

The cooperative management agreement among the state, EPA, and the tribes for total maximum daily load development is acknowledged. Resulting data that meets the objectives of an approved quality assurance plan must be considered.

Votes on Final Passage:

Senate	32	17	
House	91	3	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 10, 2004

Roll Calls on a Bill: 5957 (2003-04)

Brief Description: Establishing a system of standards and procedures concerning water quality data.

2004 Regular Session

Chamber: SENATE
Bill No.: E2SSB 5957
Description: 3RD READING & FINAL PASSAGE
Item No.: 38
Transcript No.: 37
Date: 02-17-2004

Yeas: 32 Nays: 17 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Berkey, Deccio, Doumit, Esser, Finkbeiner, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Johnson, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Rasmussen, Roach, Schmidt, Sheahan, Sheldon, T., Shin, Stevens, Swecker, Winsley, Zarelli

Voting nay: Senators Brown, Carlson, Eide, Fairley, Franklin, Fraser, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Prentice, Regala, Sheldon, B., Spanel, Thibaudeau

2004 Regular Session

Chamber: HOUSE
Bill No.: E2SSB 5957
Description: FP AS AMD BY THE HOUSE
Item No.: 6
Transcript No.: 54
Date: 03-05-2004

Yeas: 91 Nays: 03 Absent: 00 Excused: 04

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Clements, Clibborn, Cody, Condotta, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representatives Chase, Conway, McCoy

Excused: Representatives Edwards, Eickmeyer, Hinkle, Mastin

2004 Regular Session

Chamber: SENATE

Bill No.: E2SSB 5957

Description: FINAL PASSAGE AS AMENDED BY THE HOUSE

Item No.: 14

Transcript No.: 58

Date: 03-09-2004

Yeas: 47 Nays: 00 Absent: 00 Excused:
02

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio,
Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hale, Hargrove,
Haugen, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser,
Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray,
Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach,
Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens,
Swecker, Thibaudeau, Winsley, Zarelli

Excused: Senators Fairley, Hewitt

ENGROSSED SUBSTITUTE SENATE BILL 6125

Providing for alternate members of a water conservancy board

PROGRAM IMPACTS

The bill allows a county to appoint up to two alternate conservancy board commissioners to participate in water right change decisions in the event of the absence or recusal of a regular board commissioner. The bill does not directly require any new work by the Department of Ecology; however, the appointment of additional commissioners would increase the number of persons requiring training by the Department.

RESOURCE IMPACTS

No new revenues or resources were provided to the Department to implement the bill. The Department will implement its responsibilities under the bill (training alternate commissioners and tracking their status) using existing staff. It is not possible to predict how many alternates are likely to be appointed. Training a few additional persons every year should not significantly increase costs to the department.

WORK PLAN

As alternate commissioners are appointed, Ecology will need to include them in plans and notifications for training of commissioners and will need to keep track of the training status of alternates.

No hiring will be necessary. The bill will be implemented by existing staff.

No rule-making is required by the bill. The Department may elect to update its conservancy board rules at some point in the future to reflect the bill's authorization of alternate conservancy board commissioners.

Contact person: Janet Carlson – Water Resources Program, Eastern Regional Office;
Phone: 509/329-3421; **E-mail:** jaca461@ecy.wa.gov

FINAL BILL REPORT

ESSB 6125

C 10 L 04

Synopsis as Enacted

Brief Description: Providing for alternate members of a water conservancy board.

Sponsors: Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senator Morton).

Senate Committee on Natural Resources, Energy & Water
House Committee on Agriculture & Natural Resources

Background: There are currently 21 water conservancy boards operating in Washington, 16 in eastern Washington and five in western Washington. Where a county or counties have created a water conservancy board, the board is authorized to process the same kinds of "transfer" applications as the Department of Ecology with a few exceptions. A board's decision is subject to department approval. "Transfer" is defined by statute to mean transfer, change, amendment, or other authorized alteration of a water right.

Approval or denial of a water right transfer application is determined by the majority vote of a board. The board may consist of either three or five commissioners. Official board business requires a quorum, defined as the physical presence of two of the three members of a three-member board or three of the five members of a five-member board. A board may operate with one or two vacant positions as long as it meets quorum requirements, though counties are required to appoint a new commissioner to fill an unexpired term. Statute does not provide for a person to be appointed on a temporary basis, though a department rule allows an alternate to receive training and serve temporarily in a nonvoting capacity. An alternate is not counted for quorum purposes.

Recusal is required for a board member with a conflict of interest. Some board commissioners have reported that recusals, unexpected absences and board vacancies can make it difficult to reach the quorum needed to continue board activities.

Summary: County legislative authorities are authorized to appoint up to two alternates to fill in for recused or absent full-time commissioners on a water conservancy board. An alternate must meet training and other requirements applicable to full-time commissioners, including conflict of interest requirements, before serving and voting as a commissioner. Such alternates count toward a quorum.

An alternate must fully review the record of an application under review. The board must notify interested applicants and participants if an alternate will be sitting as a commissioner.

As in current statute, a majority of a board is required to approve or deny a water right transfer application. When alternates are serving as commissioners on a board, a majority vote of a board must include at least one member appointed as a full-time commissioner.

Votes on Final Passage:

Senate	46	0
House	94	0

Effective: June 10, 2004

Roll Calls on a Bill: 6125 (2003-04)

Brief Description: Conservancy board voting.

Revised for 1st Substitute: Providing for alternate members of a water conservancy board.

2004 Regular Session

Chamber: SENATE
Bill No.: ESSB 6125
Description: 3RD READING & FINAL PASSAGE
Item No.: 4
Transcript No.: 29
Date: 02-09-2004

Yeas: 46 Nays: 00 Absent: 00 Excused: 03

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

Excused: Senators Eide, Oke, Sheldon, T.

2004 Regular Session

Chamber: HOUSE
Bill No.: ESSB 6125
Description: FINAL PASSAGE
Item No.: 6
Transcript No.: 51
Date: 03-02-2004

Yeas: 94 Nays: 00 Absent: 00 Excused: 04

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, Mielke, Miloscia, Moeller, Morrell, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Skinner, Sommers, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Edwards, McMorris, Morris, Sullivan

SECOND SUBSTITUTE SENATE BILL 6144

Developing a statewide plan to address forest health

PROGRAM IMPACTS

The bill designates the Commissioner of Public Lands as the state of Washington's lead for all forest health issues. It requires the Commissioner to develop a statewide plan for increasing forest resistance and resilience to forest insects, disease, wind, and fire in Washington by December 30, 2004. In developing the statewide plan, the Commissioner shall work with and consult the work group created in this act. The bill also requires the Commissioner of Public Lands to report to the Chairs of the appropriate standing committees of the legislature every year on progress under this act, including the identification, if deemed appropriate by the Commissioner, of any needed statutory changes, policy issues, or funding needs.

The bill allows the Department of Natural Resources to initiate contract harvesting timber sales, or other silvicultural treatments when appropriate, in specific areas of state trust forest land where the Department has identified forest health deficiencies as enumerated in this act. All harvesting or silvicultural treatments applied under this act must be tailored to improve the health of the specific stand, must be consistent with any applicable state forest plans and other management agreements, and must comply with all applicable state and federal laws and regulations regarding the harvest of timber by the Department of Natural Resources.

Ecology does not have an explicit role under the bill, although the work group created under the act includes a representative of the Governor. Ecology does have concerns regarding the effects of proposals on water quality and habitat, and will need to coordinate with other agencies to review draft plans and proposals.

RESOURCE IMPACTS

No revenue or resources were provided for staff time to implement the bill.

At a minimum, a few days of staff time will be needed to coordinate with other agencies and to review products from the workgroup.

WORK PLAN

Ecology will coordinate with the Governor's Office, Department of Natural Resources, and Department of Fish and Wildlife to review and comment on the draft statewide Forest Health Plan, and any proposed statutory or policy changes related to forest health that may affect water quality or habitat.

Ecology regional staff will have an opportunity to review forest practices applications for silvicultural treatments conducted under this act in common with other forest practices applications they review.

The bill requires that a majority of the work be accomplished by December 30, 2004. A minor amount of work is anticipated for subsequent years.

The work will be accomplished with existing staff.

Contact person: Jeannette Barreca – Water Quality Program;

Phone: 360/407-6994; **E-mail:** jbar461@ecy.wa.gov

FINAL BILL REPORT

2SSB 6144

C 218 L 04

Synopsis as Enacted

Brief Description: Developing a statewide plan to address forest health.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Morton and Deccio).

Senate Committee on Natural Resources, Energy & Water

Senate Committee on Ways & Means

House Committee on Agriculture & Natural Resources

House Committee on Appropriations

Background: Numerous studies have found that many American forests are under stress from poor forest conditions. The problem basically includes forest weeds, tree disease, overly dense forest areas and species growing in areas where they have not traditionally grown. The resulting problems from forest diseases include the risk of wildfire and loss of habitat for wildlife. Continuing threats from the introduction and spread of non-native pests and plants, extreme weather events, climatic flux and changes in forest conditions due to both man and nature are placing numerous forests at risk. This includes both those forests that are managed for timber production and those that are managed for multiple uses and for wilderness preservation.

The United States Congress has passed legislation requiring that the United States Forest Service work to improve forest health conditions. The Washington State authority for forest health has not been updated since the early 1950s. Since the statute is out of date, and since the problem has become much more serious in the last three decades, new statutory requirements need to be put in place.

Summary: The Department of Natural Resources (DNR) is given temporary authority to use its contract harvesting program to conduct silvicultural treatments in specific areas of state forest land where health deficiencies have been identified. All treatments must be tailored to improve the health of the forest stand, and must be in accordance with all applicable forest health plans, laws, and other agreements. When planning for silvicultural treatments, DNR is instructed to give priority to fulfilling existing forest plans.

All contract harvesting operations that are conducted primarily for forest health are exempt from the annual 10 percent cap on contract harvesting sales.

Authority to use the contract harvesting program for silviculture expires in 2007. In 2006, DNR must report to the Legislature a summary of silvicultural operations carried out using contract harvesting.

The Commissioner of Public Lands is designated as the state's lead for forest health issues. As such, the commissioner is expected to promote communications between the state, the federal government, state agencies, and local governments. The commissioner must use available avenues to influence federal decisions that could

impact forest health in Washington. These avenues can include, when deemed by the commissioner to be in the best interest of the state, appearing before federal agencies, developing formal comments on federal forest management plans, and pursuing cooperative agreements with the United States Forest Service.

A work group is created to study opportunities to improve forest health and to aid the commissioner with the development of a statewide plan for forest health. The work group's participants will generally be appointed by the commissioner, and include up to 14 individuals with knowledge in forests, forest ecology, or forest health.

Recommendations and findings are due to the Legislature and the Board of Natural Resources by December 30, 2004. Directions to the work group include:

- Evaluating the current forest health laws and other state laws that may be used as models for future forest health legislation;
- Studying incentives for landowners to maintain forest health;
- Developing recommendations for the proper treatment of damaged timber; and
- Recommending if the work group should be extended.

The work group expires on June 30, 2005 and the contract harvest provisions related to forest health expire December 31, 2007.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: March 29, 2004

Roll Calls on a Bill: 6144 (2003-04)

Brief Description: Developing a statewide plan to address forest health.

2004 Regular Session

Chamber: SENATE
Bill No.: 2SSB 6144
Description: 3RD READING & FINAL PASSAGE
Item No.: 26
Transcript No.: 33
Date: 02-13-2004

Yeas: 48 Nays: 00 Absent: 00 Excused: 01

Voting Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide,
yea: Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt,
 Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles,
 McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen,
 Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B.,
 Sheldon, T., Shin, Spanel, Stevens, Swecker, Winsley, Zarelli

Excused: Senator Thibaudeau

2004 Regular Session

Chamber: HOUSE
Bill No.: 2SSB 6144
Description: FP AS AMD BY THE HOUSE
Item No.: 19
Transcript No.: 59
Date: 03-10-2004

Yeas: 96 Nays: 00 Absent: 00 Excused:
02

Voting Representatives Ahern, Alexander, Anderson, Armstrong, Bailey,
yea: Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler,
 Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox,
 Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer,
 Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle,
 Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby,
 Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott,
 McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller,
 Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby,
 Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne,
 Ruderman, Santos, Schindler, Schoesler, Sehlin, Shabro, Simpson, D.,
 Simpson, G., Skinner, Sommers, Sullivan, Sump, Talcott, Tom,
 Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Edwards, Schual-Berke

2004 Regular Session

Chamber: SENATE

Bill No.: 2SSB 6144

Description: FINAL PASSAGE AS AMENDED BY THE HOUSE

Item No.: 14

Transcript No.: 60

Date: 03-11-2004

Yeas: 48 Nays: 00 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley

Excused: Senator Zarelli

SUBSTITUTE SENATE BILL 6155

Preventing the spread of horticultural pests and diseases

PROGRAM IMPACTS

SSB 6155 amends RCW 70.94.743 to define "ongoing agricultural activities" to include the burning of cultivated orchard trees whether or not the owner or operator of the land intends to replant trees or other agricultural crops on the land, when a local horticultural disease/pest expert has determined in writing that burning is an appropriate method to prevent or control the disease or pest.

The legislation ensures that burning of orchard trees and related debris will be allowed in urban growth areas to control a disease or pest problem no matter what the future use of the land may be.

Ecology will need to amend at least one and possibly two rules - agricultural burning and outdoor burning; notify local governments, fire districts, landowners, developers, orchardists and local air agencies of the changes; and modify its outdoor burning permit application and educational materials to match the legislation.

RESOURCE IMPACTS

No resources were provided to accomplish the requirements of SSB 6155. The Department through previous commitments plans to amend its agricultural burning rule beginning in the late spring of 2004. Horticultural pest related amendments will be added to that rule making process. The Department has no plans to open its outdoor burning rules in the foreseeable future. If necessary for implementation of SSB 6155, the Department will need to re-prioritize its regulatory reform work to accommodate the unanticipated rule making. Technical assistance and agricultural burning related field staff will be redirected to provide notification, education and assistance to the tree fruit industry, local air agencies and other stakeholders about the statutory change.

WORK PLAN

- Notify local air agencies, local governments and orchard industry in affected counties about the change in law – Spring 2004
- Work through the legislatively established Agricultural Burning Practices Task Force to create acceptable protocols and approaches to implement SSB 6155 – Spring 2004
- Modify Ecology outdoor burning permit application and educational materials to match SSB 6155 and Agricultural Task Force recommendations – Spring 2004
- Begin agricultural burning rule changes to incorporate SSB 6155 – Spring 2004
- Complete agricultural burning rule changes – Spring 2006

Contact person: Stu Clark – Air Quality Program; **Phone:** 360/407-6873

Email: scla461@ecy.wa.gov

FINAL BILL REPORT

SSB 6155

C 213 L 04

Synopsis as Enacted

Brief Description: Preventing the spread of horticultural pests and diseases.

Sponsors: Senate Committee on Agriculture (originally sponsored by Senators Parlette, Hewitt and Mulliken).

Senate Committee on Agriculture
House Committee on Fisheries, Ecology & Parks

Background: Outdoor burning is generally not allowed in: (1) any area of the state where federal or state ambient air quality standards are exceeded for pollutants emitted by outdoor burning; or (2) urban growth areas, with limited exceptions.

Agricultural burning is the burning of vegetative debris from an agricultural operation as necessary for disease or pest control, crop propagation, or crop rotation, and may include the burning of fields, prunings, weeds, irrigation and drainage ditches, fence rows or other essential pathways. Within urban growth areas outdoor burning that is normal, necessary, and customary to ongoing agricultural activities that preceded urban growth designation is allowed if numerous conditions are met.

Agricultural burning may only be permitted in the absence of air pollution episodes or determinations of air quality impairment. An agricultural burning permit applicant must show that burning is the most reasonable procedure available or is reasonably necessary to carry out the agricultural enterprise.

Ecology has defined in rule that agricultural burning excludes "land clearing burning" of trees, stumps, shrubbery, or other natural vegetation from projects that clear the land surface so it can be developed, used for a different purpose, or left unused. Land clearing burning is generally not allowed within the urban growth boundary.

Summary: The burning of cultivated orchard trees is expressly allowed within urban growth areas as an ongoing agricultural activity, whether or not agricultural crops will be replanted on the land, if a county horticulture pest and disease board, a Washington State University extension agent, or a Washington State Department of Agriculture entomologist determines, in writing, that burning is an appropriate method to prevent or control pests or disease.

Votes on Final Passage:

Senate	49	0	
House	94	2	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 10, 2004

Roll Calls on a Bill: 6155 (2003-04)

Brief Clarifying the meaning of ongoing agricultural activities.
Description: **Revised for 1st Substitute**: Preventing the spread of horticultural pests and diseases.

2004 Regular Session

Chamber: SENATE
Bill No.: SSB 6155
Description: 3RD READING & FINAL PASSAGE
Item No.: 12
Transcript No.: 30
Date: 02-10-2004
Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

2004 Regular Session

Chamber: HOUSE
Bill No.: SSB 6155
Description: FP AS AMD BY THE HOUSE
Item No.: 18
Transcript No.: 52
Date: 03-03-2004
Yeas: 94 Nays: 02 Absent: 00 Excused: 02

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Skinner, Sommers, Sump, Talcott, Tom, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representatives Rockefeller, Upthegrove

Excused: Representatives Eickmeyer, Sullivan

2004 Regular Session

Chamber: SENATE

Bill No.: SSB 6155

Description: FINAL PASSAGE AS AMENDED BY THE HOUSE

Item No.: 11

Transcript No.: 58

Date: 03-09-2004

Yeas: 48 Nays: 00 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

Excused: Senator Hewitt

SUBSTITUTE SENATE BILL 6242

Establishing a statewide strategy for land acquisitions and disposal

PROGRAM IMPACTS

The Interagency Committee for Outdoor Recreation is directed to compile an inventory of land transfers by state agencies since 1980 that involve recreational and habitat lands, and to recommend a statewide strategy for future land transfers. A report to the Legislature and the Governor is due June 30, 2005.

Depending on the outcome of the study and how it is implemented, the recommendations could affect the Spills Program's Natural Resource Damage Assessments and penalty settlement cases where habitat is acquired in lieu of financial payments. The Spills Program will work to be actively involved in the study process.

RESOURCE IMPACTS

Ecology's involvement will be assimilated into the Spill Prevention, Preparedness and Response (Spills) Program's Natural Resource Damage Assessment work. A supplemental appropriation was not requested nor provided.

WORK PLAN

The Interagency Committee for Outdoor Recreation is required to submit a report to the policy and fiscal committees of the Legislature and to the Governor by June 30, 2005. Among other specifics, the report will include an inventory of recent habitat and recreational land acquisitions, and a recommended statewide strategy for future acquisitions. Ecology will provide the following information on parcels acquired through efforts of the Spills Program:

- Information on the organizations that actually acquired ownership of the properties;
- The principal use of the land, value and funding sources for the acquired land; and
- Advice on what policies, priorities, and goals should apply to the statewide coordinated strategy.

Contact person: Dick Logan – Spill Prevention, Preparedness & Response Program;
Phone: 360/407-6971; **E-mail:** dlog461@ecy.wa.gov

FINAL BILL REPORT

SSB 6242

C 263 L 04

Synopsis as Enacted

Brief Description: Establishing a statewide strategy for land acquisitions and disposal.

Sponsors: Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Parlette and Berkey).

Senate Committee on Natural Resources, Energy & Water

Senate Committee on Ways & Means

House Committee on Capital Budget

Background: Because land acquisitions by state agencies for recreation and habitat purposes have long-term consequences for the state and the counties in which the lands are located, concern has been expressed that the Legislature must be as well informed as possible regarding why and how the acquisitions are made. The most recent compilation of such information is the 1999 Public and Tribal Lands Inventory, a report to the Legislature by the Interagency Committee for Outdoor Recreation that provides a baseline inventory of public lands and identifies the total acreage of public and tribal lands, their ownership, general location, and primary purpose.

Summary: The Interagency Committee for Outdoor Recreation is directed to compile an inventory of land transfers by state agencies since 1980 that involve recreational and habitat lands and to recommend a statewide strategy for future transfers. A report to the Legislature and the Governor is due June 30, 2005.

The inventory will cover transfers of both ownership and less than ownership interests that are either funded by state agencies, traded, or gifted; sources of funding; principal uses of the lands; the agencies or local governments involved; and the costs and revenues. Additional information that local governments elect to provide regarding any other transfers that similarly result in tax exempt status will also be included.

The statewide strategy will provide for policies and priorities, determination of need, coordination among agencies, compensation of local governments for loss of tax revenue, and achieving "no net gain" in counties with large amounts of public land.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 10, 2004

Roll Calls on a Bill: 6242 (2003-04)

Brief Description: Establishing a statewide strategy for land acquisitions and disposal.

2004 Regular Session

Chamber: SENATE
Bill No.: SSB 6242
Description: 3RD READING & FINAL PASSAGE
Item No.: 9
Transcript No.: 32
Date: 02-12-2004

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

2004 Regular Session

Chamber: HOUSE
Bill No.: SSB 6242
Description: FP AS AMD BY THE HOUSE
Item No.: 15
Transcript No.: 60
Date: 03-11-2004

Yeas: 96 Nays: 00 Absent: 00 Excused: 02

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Erickson, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Edwards, Flannigan

2004 Regular Session

Chamber: SENATE
Bill No.: SSB 6242
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE
Item No.: 45
Transcript No.: 60
Date: 03-11-2004

Yeas: 44 Nays: 00 Absent: 03 Excused: 02

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Hewitt, Honeyford, Horn, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Winsley, Zarelli

Absent: Senators Jacobsen, McCaslin, Swecker

Excused: Senators Haugen, Thibaudeau

SUBSTITUTE SENATE BILL 6265

*Improving the efficiency of the permitting
process when multiple agencies are involved*

PROGRAM IMPACTS

SSB 6265 finds there is an immediate need to coordinate permitting timelines for large, multi-agency permitting projects. SSB 6265 provides that with the agreement of all involved agencies and the permit applicant, state permitting agencies may establish and coordinate timelines that will be used by each agency to make permit decisions, including: the time periods required to determine if the permit applications are complete; to review the application or applications; and to process the component permits. Ecology programs already work to establish and coordinate permitting timelines through each of the regional offices, and, in the case of the larger permitting projects, through the regional Office of Regulatory Assistance leads.

RESOURCE IMPACTS

No revenue or resources were provided to implement the measure. No additional fiscal impact identified.

WORK PLAN

As projects opt to use this new process, Ecology will coordinate and participate through its Office of Regulatory Assistance responsibilities.

Contact person: Greg Sorlie – Special Assistant for Regulatory Improvement;

Phone: 360/407-0291; **E-mail:** gsor461@ecy.wa.gov or

Scott Boettcher – Office of Regulatory Assistance; **Phone:** 360/407-7564;

E-mail: sboe461@ecy.wa.gov

FINAL BILL REPORT

SSB 6265

C 32 L 04

Synopsis as Enacted

Brief Description: Improving the efficiency of the permitting process when multiple agencies are involved.

Sponsors: Senate Committee on Land Use & Planning (originally sponsored by Senators Swecker, Doumit, Oke, Mulliken, Horn, Jacobsen, Sheahan, Hale, Rasmussen and Murray).

Senate Committee on Land Use & Planning
House Committee on State Government

Background: A number of efforts are underway in the state to streamline and improve the way in which regulatory permits are issued. Improvements are likely to be realized by the year 2006.

Summary: The Legislature finds that there is an immediate need for coordination of permit timelines for large, multi-agency permit efforts.

State permitting agencies are authorized to enter into agreements with permit applicants and each other for the purpose of setting the timelines they will use for making permit decisions. The timelines must not be shorter than they would otherwise be but may be extended and coordinated. The goal is to achieve maximum efficiency by means of concurrent studies and consolidation of applications, review, comment periods, and hearings. The agencies are required to commit to the timelines set in the agreement. The 45-day limit in the hydraulic code can be extended for this purpose.

Votes on Final Passage:

Senate	48	0
House	94	0

Effective: June 10, 2004

Roll Calls on a Bill: 6265 (2003-04)

Brief Description: Improving the efficiency of the permitting process when multiple agencies are involved.

2004 Regular Session

Chamber: SENATE
Bill No.: SSB 6265
Description: 3RD READING & FINAL PASSAGE
Item No.: 3
Transcript No.: 36
Date: 02-16-2004

Yeas: 48 Nays: 00 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

Excused: Senator Sheldon, T.

2004 Regular Session

Chamber: HOUSE
Bill No.: SSB 6265
Description: FINAL PASSAGE
Item No.: 13
Transcript No.: 51
Date: 03-02-2004

Yeas: 94 Nays: 00 Absent: 00 Excused: 04

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, Mielke, Miloscia, Moeller, Morrell, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Skinner, Sommers, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Edwards, McMorris, Morris, Sullivan

SUBSTITUTE SENATE BILL 6286

Modifying provisions of the heating oil pollution liability protection act

PROGRAM IMPACTS

In this legislation, heating oil fees paid by dealers were raised from 0.6 cents per gallon to 1.2 cents per gallon. These fees help support the Pollution Liability Insurance Agency's (PLIA) insurance program for residential home heating oil owners and PLIA's oversight of home heating oil cleanups.

A new advisory group was formed to monitor and provide input on PLIA's management of their home heating oil program. The advisory group includes Ecology, representatives of oil industry groups, and community members.

RESOURCE IMPACTS

There are no fiscal impacts for Ecology, as we already participate in PLIA's existing advisory group.

WORK PLAN

Ecology's representative on the advisory group is Jim Pendowski, and Tim Nord is his alternate. The group meets quarterly.

Contact person: Jim Pendowski – Toxics Cleanup Program; **Phone:** 360/407-7177;
E-mail: jpen461@ecy.wa.gov

FINAL BILL REPORT

SSB 6286

C 203 L 04

Synopsis as Enacted

Brief Description: Modifying provisions of the heating oil pollution liability protection act.

Sponsors: Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senator Morton).

Senate Committee on Natural Resources, Energy & Water
House Committee on Financial Institutions & Insurance

Background: In recent years, a significant increase in the number of claims filed under the state's heating oil tank insurance program has been reported by the Pollution Liability Insurance Agency (PLIA). The amount of claim payments significantly exceeds the amount contributed to the heating oil insurance trust account from the existing fee of six tenths of one cent (.006 cents) per gallon of heating oil purchased within the state. As provided by law, the difference is being paid out of the state's pollution liability insurance trust account, which is funded mainly by the Petroleum Products Tax of fifty one-hundredths of 1 percent (.5 percent) on the wholesale value of petroleum, when first introduced into the state, and which was initially created to provide pollution liability insurance for regulated petroleum underground storage tanks. As a result, PLIA and representatives of the commercial petroleum and home heating oil industries are engaged in efforts to address funding and management of the state's pollution liability insurance programs for petroleum underground storage tanks and home heating oil tanks.

Summary: The pollution liability insurance fee for heating oil is set at one and two-tenths (.012) cents per gallon. Coverage of \$60,000 per occurrence for heating oil tanks is specified as being up to that amount of coverage.

An advisory committee of stakeholders must be created by the director of the Pollution Liability Insurance Agency to advise on all aspects of program operations and fees and on pollution prevention. The membership of the committee is specified and includes representatives of the commercial petroleum and home heating oil industries and insured owners of home heating oil tanks. The director must monitor agency expenditures, ensure responsible financial stewardship, study if appropriate user fees are necessary to supplement program funding, and develop recommendations for legislation to authorize such fees.

Funds in the heating oil pollution liability trust account that must be transferred to the pollution liability insurance program trust account must be transferred at the end of the calendar year and are to be in excess of those needed for the next January's administrative costs.

Liquefiable gases like butane, ethane, and propane are removed from the petroleum products that are taxed for the purpose of funding pollution liability insurance programs.

Votes on Final Passage:

Senate	49	0	
House	95	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004
July 1, 2004 (Section 3)

Roll Calls on a Bill: 6286 (2003-04)

Brief Description: Modifying provisions of the heating oil pollution liability protection act.

2004 Regular Session

Chamber: SENATE
Bill No.: SSB 6286
Description: 3RD READING & FINAL PASSAGE
Item No.: 4
Transcript No.: 32
Date: 02-12-2004

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit,
yea: Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove,
 Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser,
 Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke,
 Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt,
 Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker,
 Thibaudeau, Winsley, Zarelli

2004 Regular Session

Chamber: HOUSE
Bill No.: SSB 6286
Description: FP AS AMD BY THE HOUSE
Item No.: 5
Transcript No.: 52
Date: 03-03-2004

Yeas: 95 Nays: 00 Absent: 00 Excused:
03

Voting Representatives Ahern, Alexander, Anderson, Armstrong, Bailey,
yea: Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler,
 Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox,
 Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards,
 Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle,
 Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby,
 Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott,
 McDonald, McIntire, McMahan, Mielke, Miloscia, Moeller, Morrell,
 Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson,
 Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne,
 Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro,
 Simpson, D., Simpson, G., Skinner, Sommers, Sump, Talcott, Tom,
 Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Eickmeyer, McMorris, Sullivan

2004 Regular Session

Chamber: SENATE
Bill No.: SSB 6286
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE
Item No.: 12
Transcript No.: 57
Date: 03-08-2004

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting
yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit,
Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove,
Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser,
Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke,
Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt,
Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker,
Thibaudeau, Winsley, Zarelli

SUBSTITUTE SENATE BILL 6329

Extending the date for implementation of ballast water discharge requirements

PROGRAM IMPACTS

The bill extends the deadline for ballast water treatment from July 1, 2004 to July 1, 2007. It adds 4 members to the ballast water workgroup and requires ship owners/operators to submit an interim ballast water management report describing actions to implement ballast water management requirements. The bill also encourages consistency and coordination with other state, federal, and international efforts. There is nothing in the bill specific to the Department of Ecology and it will not increase our responsibilities beyond our existing role in setting standards for the use of ballast water biocides.

RESOURCE IMPACTS

No additional Ecology revenue or resources needed.

WORK PLAN

Continue our role in setting standards and providing technical support as appropriate.

Contact person: Randall Marshall – Water Quality Program; **Phone:** 360/407-6445;
E-mail: rmar461@ecy.wa.gov

FINAL BILL REPORT

SSB 6329

C 227 L 04

Synopsis as Enacted

Brief Description: Extending the date for implementation of ballast water discharge requirements.

Sponsors: Senate Committee on Parks, Fish & Wildlife (originally sponsored by Senator Oke).

Senate Committee on Parks, Fish & Wildlife
House Committee on Fisheries, Ecology & Parks

Background: The Department of Fish and Wildlife is authorized to implement a ballast water management program. The program enters ballast water reporting data, evaluates the vessel exchanges and compliance with the state's requirements and assesses ballast treatment systems. Discharge into waters of the state of Washington is authorized if a vessel has conducted an open sea exchange of ballast water.

A ballast water task force is currently working on recommendations to the Legislature regarding ballast water treatment programs for the state of Washington.

Summary: The date for required treatment of ballast water is changed from July 1, 2004, to July 1, 2007. The ballast water work group is extended to June 30, 2007, and representatives from the Department of Fish and Wildlife, the shellfish industry, tribes, and maritime labor are added to the work group. A report to the Legislature is required by December 15, 2006. Staff is provided by the Puget Sound water quality action team.

Masters, owners, operators or persons-in-charge shall submit to the department an interim ballast water management report by July 1, 2006, describing actions needed to implement ballast water requirements.

Votes on Final Passage:

Senate	26	22
House	96	0 (House amended)
Senate	47	0 (Senate concurred)

Effective: June 10, 2004

Roll Calls on a Bill: 6329 (2003-04)

Brief Description: Extending the date for implementation of ballast water discharge requirements.

2004 Regular Session

Chamber: SENATE
Bill No.: SB 6329
Description: 3RD READING & FINAL PASSAGE
Item No.: 4
Transcript No.: 36
Date: 02-16-2004

Yeas: 26 Nays: 22 Absent: 00 Excused: 01

Voting yea: Senators Brandland, Deccio, Doumit, Esser, Finkbeiner, Hale, Hargrove, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Roach, Schmidt, Sheahan, Stevens, Swecker, Winsley, Zarelli

Voting nay: Senators Benton, Berkey, Brown, Carlson, Eide, Fairley, Franklin, Fraser, Haugen, Keiser, Kline, Kohl-Welles, McAuliffe, Pflug, Poulsen, Prentice, Rasmussen, Regala, Sheldon, B., Shin, Spanel, Thibaudeau

Excused: Senator Sheldon, T.

2004 Regular Session

Chamber: HOUSE
Bill No.: SSB 6329
Description: FP AS AMD BY THE HOUSE
Item No.: 29
Transcript No.: 52
Date: 03-03-2004

Yeas: 96 Nays: 00 Absent: 00 Excused: 02

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Skinner, Sommers, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Eickmeyer, Sullivan

2004 Regular Session

Chamber: SENATE

Bill No.: SSB 6329

Description: FINAL PASSAGE AS AMENDED BY THE HOUSE

Item No.: 14

Transcript No.: 57

Date: 03-08-2004

Yeas: 47 Nays: 00 Absent: 00 Excused: 02

Voting Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit,
yea: Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt,
Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-
Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette,
Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt,
Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker,
Thibaudeau, Winsley, Zarelli

Excused: Senators Hale, Hargrove

ENGROSSED SUBSTITUTE SENATE BILL 6415

*Concerning the conditioning of industrial and construction
stormwater general discharge permits*

PROGRAM IMPACTS

This legislation defines how and when numeric and narrative effluent limitations would be included in construction and industrial stormwater general permits. Unless site specific information demonstrates otherwise, the legislation provides for a presumption of compliance with water quality standards for dischargers covered under the construction and industrial stormwater general permits, provided they are in full compliance with their permit and applicable stormwater technical manuals.

The bill requires Ecology to modify the industrial stormwater general permit to include appropriately derived numeric water quality based effluent limitations for existing dischargers which discharge to water bodies listed as impaired (303(d) listed water bodies). The industrial stormwater general permit must be modified to include compliance with this numeric effluent limitation no later than May 1, 2009. By September 1, 2008 Ecology must submit a report to the Legislature specifying how this numeric effluent limitation would be implemented, the number of dischargers subject to the limitation and an assessment of the anticipated compliance with the limitation.

The legislation also requires construction and industrial stormwater general permits include an enforceable adaptive management mechanism which includes an adaptive management trigger (i.e. benchmarks) monitoring, review and revisions to storm water pollution prevention plans and remedial actions, and reporting to Ecology.

The bill requires Ecology to initiate an inspection and compliance assistance program for dischargers covered under the construction and industrial stormwater general permits by January 2005. The bill requires all dischargers covered under the construction and industrial stormwater general permits to be inspected at least once within two years of the start of this program (by January 2007). Each discharger must also be inspected at least once each permit cycle thereafter.

The bill requires Ecology to study and submit a report to the Legislature on methods to improve the effectiveness of permit monitoring requirements in construction and industrial stormwater general permits. This study is due by December 31, 2006. The study must evaluate monitoring requirements that are necessary to determine compliance or noncompliance with state water quality standards. When conducting the study, Ecology must consult with experts in the fields of monitoring, stormwater management, and water quality. When necessary, Ecology must also conduct field work to evaluate the practicality and usefulness of alternative monitoring approaches.

The bill requires Ecology establish (raise) permit fees for dischargers covered under the construction and industrial stormwater general permits as necessary to fund the requirements in the bill including the inspection program. This section also requires Ecology to report to the Legislature on the method used to establish permit fees for dischargers covered under the construction and industrial stormwater general permits, the amount of permit fees collected, and the expenditure of permit fees. The report must also include data on inspections conducted and the staff hired.

RESOURCE IMPACTS

\$539,548 was provided from the water quality permit fee account to fund the implementation of ESSB 6415 for the remainder of the 2003-05 biennium. The bill directs Ecology to adjust permit fees for permittees covered under the construction and industrial stormwater general permits as necessary to carry out the requirements of sections 2 and 3 of the bill.

Section 4 of the bill, which directs Ecology to carry out a study on ways to improve monitoring requirements in construction and industrial stormwater general permits, is also to be funded out of the water quality permit fee account but not directly funded by raising permit fees for construction and industrial stormwater permittees. Ecology has begun the process of raising permit fees for construction and industrial stormwater general permits. Permit fees are being adopted for FY 2005 and FY 2006 and will reflect the costs (except enforcement related costs) of implementing sections 2 and 3 of the bill. Enforcement related expenditures are traditionally not funded by the permit fee account. As noted in the fiscal note for ESSB 6415, expenditures related to enforcement are expected to begin in FY 2006 and would be funded through non permit fee revenue.

WORK PLAN

General description of Ecology's process to accomplish each requirement of the bill, including rules.

Adopt New Permit Fee Schedule for Construction and Industrial Stormwater General Permits (chapter 173-224 WAC)

Publish proposed rule in state register (CR102)	April 21, 2004
Hold workshops/hearings on proposed rule	May 12-20, 2004
Close of Public Comment period	May 26, 2004
File final rule with code reviser's office (CR103)	July 12, 2004
Final Rule Published in state Register	August 4, 2004
Rule Effective	August 13, 2004
FY 2005 permit fee invoices mailed	August 23-26, 2004

Modify Industrial Stormwater General Permit

File Proposed Modification with the State Register	June 23, 2004
Proposal Published in State Register	July 7, 2004
Public Hearings on draft modified permit	August 9-13, 2004
Close of Public Comment period	August 13, 2004
File notice of final action with Code Reviser	September 1, 2004
Final permit action published in State Register	September 15, 2004
Modified permit effective	October 15, 2004

Re-issue Construction Stormwater General Permit

Work on the re-issuance of the construction stormwater general permit will begin in the late summer 2004. The exact timing and the process for re-issuing the construction stormwater general permits has not yet been determined.

Inspection and Compliance Assistance Program

Under the bill, Ecology is required to initiate a compliance and inspection program for dischargers covered under the construction and industrial stormwater general

permits by January 1, 2005. Under the bill, Ecology is required to complete inspections of all dischargers covered under the construction and industrial stormwater general permits by January 1, 2007.

2.8 annual FTEs were provided in the 2005 supplemental appropriations bill for additional inspectors for FY 2005. In addition, it is expected that there will be an estimated additional 6.1 Inspector FTEs and 1.0 FTE for enforcement for FY 2006. Ecology's water quality program is evaluating where the additional inspection and compliance staff should be located and the timing for new hires.

Monitoring Improvement Study (Section 4 Study)

By December 31, 2006 Ecology is required to submit a report to the Legislature on ways to improve the effectiveness of monitoring requirements in construction and industrial stormwater general permits. In the spring/early summer Ecology will convene an external advisory group to assist in the development of a detailed study and work plan to complete this work task.

Legislative Report on Effluent Limits for Existing Discharges to Impaired Water Bodies

By September 1, 2008 Ecology must submit a report to the Legislature on how numeric water quality based effluent limitations for existing dischargers to impaired water bodies would be implemented, the number of dischargers subject to the limitation and an assessment of the anticipated compliance with the limitation. Work on this report to the Legislature will begin in late 2007.

HIRING PLAN

Fiscal Year 2005

- 1.0 FTE for Permit and Data Management; hire as soon after July 1, 2004 as possible.
- 0.5 FTE for Permit Fee Administration; hire as soon after July 1, 2004 as possible.
- 0.5 FTE for Section 4 Monitoring Study; hire as soon after July 1, 2004 as possible.
- 2.8 FTEs for Inspections and Compliance Assistance; these staff will be hired sometime between July 1, 2004 and January 1, 2005. Exact timing and location of staff have not yet been determined.

Fiscal Year 2006

- 6.1 FTEs for Inspections and compliance Assistance. Exact timing and location of new inspection staff has not yet been determined.
- 1.0 FTE for Enforcement related to the Construction and Industrial Stormwater activities

Contact person: Bill Moore – Water Quality Program

Phone: 360/407-6444; **E-Mail:** bmoo461@ecy.wa.gov

FINAL BILL REPORT

ESSB 6415

C 225 L 04

Synopsis as Enacted

Brief Description: Concerning the conditioning of industrial and construction storm water general discharge permits.

Sponsors: Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton, Doumit, Hewitt, Hargrove, Honeyford, T. Sheldon, Hale, Murray and Stevens).

Senate Committee on Natural Resources, Energy & Water

Background: A combination of federal, state, and local laws govern storm water management in Washington. The water quality implications of storm water runoff are addressed in the federal Clean Water Act. State water pollution control statutes also regulate water quality aspects of storm water management.

As required under the Clean Water Act, the U.S. Environmental Protection Agency developed Phase I of the NPDES (National Pollution Discharge Elimination System) Storm Water Program in 1990. In addition to large municipal storm water systems, the Phase I program requires certain categories of industrial activity and construction activity that disturbs more than five acres to obtain permits. The Phase II Final Rule extended NPDES permit requirements to construction activity disturbing between one and five acres.

In addition to NPDES permit responsibilities, the Department of Ecology (DOE) administers a state program regulating discharges from certain commercial or industrial operations to ground or to publicly-owned treatment plants. Washington statute requires all pollution dischargers to use all known, available, and reasonable treatment methods to prevent and control water pollution. Annual permit fees must be established to fully recover but not exceed permit program expenses, including permit processing, monitoring, compliance, evaluation, inspection, and overhead costs.

Though a number of legal disputes surrounding these permit requirements have recently been settled or dismissed, at least three major issues--regarding compliance schedules, mixing zones and permit modifications--remain under appeal in the courts.

Summary: In accordance with federal Clean Water Act requirements, DOE is required to include pollutant specific, water quality-based effluent limitations in construction and industrial storm water general permits if there is a reasonable potential to cause or contribute to a state water quality standard excursion. Both technological and water quality-based effluent limitations may be expressed in terms that are narrative or numerical, or a combination of both. General permits must include specified adaptive management mechanisms.

A preference for the use of narrative effluent limitations is established and conditioned to require compliance with water quality standards. General storm water permittees are

given a presumption of compliance with water quality standards if they meet all permit conditions and fully implement all applicable and appropriate on-site pollution control best management practices (BMPs) as contained in, or demonstrably equivalent to practices contained in, DOE approved technical manuals. Demonstrated site specific discharge violations remove the presumption of compliance.

Numeric limits apply when specified effluent discharges are subject to certain industry-specific limitations, to limitations based on a completed total maximum daily load analysis (or other pollution control measure), or to limitations based on a DOE determination that a reasonable potential to cause or contribute to a violation of water quality standards exists and nonnumeric BMPs will not be effective in achieving state water quality standards. For existing discharges to 303(d) impaired waters, DOE must provide a report to the Legislature (by September 2008) specifying how the department will implement general industrial storm water permit modifications (that must be made by May of 2009) to require permittee compliance with numeric effluent limitations.

DOE must conduct compliance, assistance, inspections and sampling, without notice whenever practicable. DOE may provide notice that a permittee's discharge causes or has the reasonable potential to cause or contribute to a water quality standard violation. A permittee issued such notice must take, and document, all actions necessary to ensure that future discharges do not cause or contribute to such a violation. DOE may terminate coverage under a general permit and issue an alternative permit when violations recur or remain. Compliance does not preclude enforcement under the federal Clean Water Act for the underlying violation.

Follow-up inspections are to be conducted based on specified criteria, priorities, and timelines. The department is directed to take additional actions necessary to ensure compliance with state and federal water quality requirements, though this is not to be construed to limit the department's enforcement discretion. DOE must report to the Legislature on the effectiveness of permit monitoring.

Storm water pollution prevention plan development and implementation must be monitored, and a provision for storm water monitoring plans is added. DOE must report to the Legislature on the effectiveness of permit monitoring.

DOE may only authorize mixing zones that comply with applicable laws and regulations. Receiving water sampling may only be a permit requirement if it can be conducted without endangering the health and safety of permittee employees.

In accordance with the Administrative Procedure Act, and after taking specified factors into account, DOE is authorized to establish general industrial and construction storm water permit fees to fund specified activities required by statute. DOE must issue a detailed biennial accounting related to such permit fees. The act expires January 1, 2015. The act is null and void without funding.

Votes on Final Passage:

Senate	33	13	
House	95	1	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004

Roll Calls on a Bill: 6415 (2003-04)

Brief Concerning storm water general discharge permits.
Description: **Revised for 1st Substitute:** Concerning the conditioning of industrial and construction storm water general discharge permits.

2004 Regular Session

Chamber: SENATE
Bill No.: ESSB 6415
Description: 3RD READING & FINAL PASSAGE
Item No.: 45
Transcript No.: 36
Date: 02-16-2004

Yeas: 33 Nays: 13 Absent: 00 Excused: 03

Voting yea: Senators Benton, Brandland, Berkey, Carlson, Deccio, Doumit, Eide, Esser, Finkbeiner, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Johnson, Kastama, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Rasmussen, Roach, Schmidt, Sheahan, Sheldon, T., Shin, Stevens, Swecker, Winsley, Zarelli

Voting nay: Senators Brown, Fairley, Franklin, Fraser, Jacobsen, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Regala, Sheldon, B., Spanel

Excused: Senators Keiser, McCaslin, Thibaudeau

2004 Regular Session

Chamber: HOUSE
Bill No.: ESSB 6415
Description: FP AS AMD BY THE HOUSE
Item No.: 15
Transcript No.: 58
Date: 03-09-2004

Yeas: 95 Nays: 01 Absent: 00 Excused: 02

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representative Holmquist

Excused: Representatives Edwards, Flannigan

2004 Regular Session

Chamber: SENATE

Bill No.: ESSB 6415

Description: FINAL PASSAGE AS AMENDED BY THE HOUSE

Item No.: 17

Transcript No.: 59

Date: 03-10-2004

Yeas: 49 Nays: 00 Absent: 00 Excused:
00

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

SUBSTITUTE SENATE BILL 6485

Improving the regulatory environment for hospitals

PROGRAM IMPACTS

SSB 6485 directs the Department of Health (DOH) and the hospital association to oversee a pilot project that coordinates inspections and site visits among state agencies including Ecology and evaluates strategies to further streamline interactions. Ecology would need to assist in developing a standard set of inspection/survey documents to be available for hospitals for all types of on-site visits. State agencies must provide four weeks prior notice of inspections/surveys, except when responding to complaints or immediate public health and safety concerns or when such prior notice would conflict with other state or federal law.

Ecology will need to post on its website the most frequent problems identified during hospital visits, information on how to prevent/avoid such problems and contact names for further assistance. Ecology would assist DOH in developing a customer satisfaction survey instrument. It is expected that Ecology would be called on to assist DOH in its preparation of the report to the Legislature. DOH is required to report to the Legislature by December 1, 2004 on pilot program results.

The Air Quality, Water Quality, Hazardous Waste & Toxics Reduction, and Toxics Cleanup Programs at Ecology occasionally interact with hospitals. Ecology may need to increase its internal coordination as well as coordination with health agencies and fire/life safety agencies who survey and audit for health care reasons.

RESOURCE IMPACTS

No resources were provided to implement the legislation. The workload associated with SSB 6485 is expected to be light, approximately 0.2 FTE in FY 04-05, and will be accomplished by shifting staff from previously assigned technical assistance work.

WORK PLAN

- Participate on interagency workgroup headed by DOH to carryout and oversee the pilot in SSB 6485 – Begin Spring 2004.
- Post on Ecology website the most frequent issues we have with hospitals and how best to resolve related problems – Spring 2004
- Begin advance notification and coordination of inspections with other agencies as appropriate – Summer 2004
- Assist DOH in development of survey tool and preparation of report to the Legislature and Governor – Fall 2004

Contact person: Stu Clark – Air Quality Program; **Phone:** 360/407-6873;

E-mail: scla461@ecy.wa.gov

FINAL BILL REPORT

SB 6485

C 261 L 04

Synopsis as Enacted

Brief Description: Improving the regulatory environment for hospitals.

Sponsors: Senators Deccio and Winsley.

Senate Committee on Health & Long-Term Care

House Committee on Health Care

Background: In late 2002, the Washington State Hospital Association (WSHA) issued its report "How Regulations Are Overwhelming Washington Hospitals," outlining the difficulty and costs hospitals face in complying with the various federal, state and local regulations that govern their construction and operation. During the 2003 session, SB 5833 was introduced, requiring the coordination of hospital surveys and audits conducted by state agencies.

Prompted by this, in June 2003, the Governor directed the formation of the Hospital Onsite Survey Coordination Workgroup, made up of representatives of the WSHA and the various state agencies that regulate hospitals. He charged the workgroup with "exploring ways to streamline the frequency and duration of onsite survey activities, improving hospital notification when possible, and fostering greater coordination and less duplication of efforts." The workgroup issued a progress report, including its findings and recommendations, in November 2003.

A hospital is required to get a certificate of need from the Department of Health prior to increasing bed capacity or adding a tertiary health service. The department must consider certain criteria specified in statute when determining whether or not to issue the certificate of need.

The Federal Balanced Budget Act of 1997 established the Critical Access Hospital Program. The program is intended to increase access to care in rural areas by allowing more flexibility in staffing, simplifying billing methods, and creating incentives to integrate health delivery systems. One of the conditions for participation in the program is that the hospital have no more than 25 acute care patients at any one time. Washington currently has 29 hospitals certified as critical access hospitals.

Public Hospital Districts (PHD's) are special purpose districts that operate hospitals and provide other health-related services. Commissioners of a PHD are publicly elected officials. A PHD may contract or join with another hospital, a PHD, or other entity to provide health care services or operate health care facilities by forming a nonprofit joint legal entity. The governing body of such a joint entity must include representatives of the PHD, *including* the PHD commissioners.

Summary: The Department of Health (DOH) must oversee a pilot project, including other relevant state agencies, which implements and evaluates strategies to reduce the

burden on hospitals of government surveys and audits. Results of the pilot project must be reported to the Legislature by December 1, 2004.

By July 1, 2004, each state agency which conducts hospital surveys or audits must post to its agency web site a list of the most frequent problems identified in its surveys or audits, information on how to address the identified problems, and the name of a person within the agency that a hospital may contact with questions or for further assistance.

By July 1, 2004, the Department of Health must develop an instrument, to be provided to every hospital upon completion of a state survey or audit, which allows the hospital to evaluate the survey or audit process. DOH must distribute the completed evaluations to the relevant agencies, and compile them in an annual report to the Legislature.

Except when responding to complaints or immediate public health and safety concerns, or when such prior notice would conflict with other state or federal law, any state agency that provides notice of a hospital survey or audit must do so no less than four weeks prior to the date of the survey or audit.

State hospital fire protection and enforcement standards must be consistent with the standards adopted by the federal centers for Medicare and Medicaid services for hospitals that care for Medicare or Medicaid beneficiaries.

The Office of the State Fire Marshal and relevant local agencies are added to the list of entities with whom DOH is to coordinate when conducting hospital inspections. DOH must notify each agency at least four weeks prior to any inspection, invite their attendance, and provide each a copy of its inspection report upon completion.

DOH must coordinate its hospital construction review process with other state and local agencies having similar review responsibilities. Inconsistencies or conflicts among the agencies must be identified and eliminated.

A health care facility that is certified as a critical access hospital is not required to apply for a certificate of need when increasing its total number of licensed beds to the maximum of 25 as permitted by federal law. The beds may also be redistributed among acute care and nursing home care without requiring a certificate of need review. The exception to the certificate of need review requirement does not apply if there is a nursing home within 27 miles of the hospital unless the hospital had designated nursing home beds before December 31, 2003 or the hospital is using up to five swing beds.

If the hospital discontinues its certified status as a critical access hospital, the hospital may revert back to the number of beds and types of beds that it had when it originally requested critical access hospital certification.

If a PHD enters into a joint entity, the governing body of the joint entity must still include representatives of the PHD, but no longer must include the PHD commissioners.

Votes on Final Passage:

Senate	46	0	
House	95	0	(House amended)
Senate			(Senate refused to concur)
House	97	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004

Roll Calls on a Bill: 6485 (2003-04)

Brief Description: Improving the regulatory environment for hospitals.

2004 Regular Session

Chamber: SENATE

Bill No.: SB 6485

Description: 3RD READING & FINAL PASSAGE

Item No.: 12

Transcript No.: 37

Date: 02-17-2004

Yeas: 46 Nays: 00 Absent: 01 Excused:
02

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Winsley, Zarelli

Absent: Senator Doumit

Excused: Senators Schmidt, Thibaudeau

2004 Regular Session

Chamber: HOUSE

Bill No.: SB 6485

Description: FP AS AMD BY THE HOUSE

Item No.: 22

Transcript No.: 51

Date: 03-02-2004

Yeas: 95 Nays: 00 Absent: 00 Excused: 03

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Skinner, Sommers, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Edwards, Morris, Sullivan

2004 Regular Session

Chamber: HOUSE
Bill No.: SB 6485
Description: FP AS AMD BY THE HOUSE
Item No.: 3
Transcript No.: 59
Date: 03-10-2004

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representative Edwards

2004 Regular Session

Chamber: SENATE
Bill No.: SB 6485
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE
Item No.: 19
Transcript No.: 60
Date: 03-11-2004

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

SUBSTITUTE SENATE BILL 6575

*Concerning use classification for irrigation district
conveyance and drainage facilities*

PROGRAM IMPACTS

This bill provides that the Department of Ecology, as resources allow, shall at the request of the United States Bureau of Reclamation or federal reclamation project irrigation districts cooperatively conduct a use attainability analysis of water bodies located within the boundaries of the federal reclamation project.

RESOURCE IMPACTS

The bill does not provide any additional funding for Ecology and only requires Ecology action "as resources allow". Ecology expects that a Use Attainability Analysis for the irrigation project would require one to two FTEs for a period of three to four years to develop the technical analysis. An additional FTE would be needed to develop rules and go through the Administrative Procedures Act based on the Use Attainability Analysis.

WORK PLAN

Since no resources were provided to Ecology and the Bureau of Reclamation has yet to request this analysis be done, Ecology is currently not planning on doing this work. Should the request come in, Ecology will need to determine if existing resources can be made available to conduct the analysis.

Contact person: Melissa Gildersleeve – Water Quality Program;

Phone: 360/407-6461; **E-mail:** mgil461@ecy.wa.gov

FINAL BILL REPORT

SSB 6575

C 214 L 04

Synopsis as Enacted

Brief Description: Concerning use classifications for irrigation district conveyance and drainage facilities.

Sponsors: Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Honeyford and Sheahan).

Senate Committee on Natural Resources, Energy & Water

House Committee on Agriculture & Natural Resources

House Committee on Appropriations

Background: The Department of Ecology designates "uses" for each water body in the state. Uses include items such as swimming, fishing, aquatic life habitat, and agricultural and domestic water supplies. Once the state has designated a use or uses for a water body, water quality standards designed to protect those uses must be adopted and enforced. If the set water quality standards are not met for the designated uses, the department must develop and implement a total maximum daily load analysis for waters.

A state may, under certain circumstances, remove or modify a water body's designated use. To receive Environmental Protection Agency approval for such a change, a supporting "use attainability analysis" must be performed.

"Use attainability analysis" is a structured scientific assessment of the factors affecting the attainment of a designated use in a water body. The assessment may include consideration of physical, chemical, biological and economic factors.

Summary: The Department of Ecology will, as resources allow, at the request of the United States Bureau of Reclamation and federal reclamation project irrigation districts, cooperatively conduct a use attainability analysis of water bodies located within the boundaries of the federal reclamation project.

Once the use attainability analysis has been completed, and if it shows that the designated uses of the water should be modified, then DOE must undertake rulemaking to remove or modify the water body's designated use.

The department's rules designating uses for water bodies within the federal reclamation project, consistent with federal laws and regulations that support beneficial uses consistent with primary authorized project purposes of constructed storage and conveyance facilities. The rules must recognize the unique site-specific characteristics of the arid and semi-arid regions of the state of Washington where federal reclamation projects are located and recognize the need to deliver water and the associated activities necessary to operate the project's facilities.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 10, 2004

Roll Calls on a Bill: 6575 (2003-04)

Brief Description: Concerning use classifications for irrigation district conveyance and drainage facilities.

2004 Regular Session

Chamber: SENATE
Bill No.: SSB 6575
Description: 3RD READING & FINAL PASSAGE
Item No.: 23
Transcript No.: 31
Date: 02-11-2004

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

2004 Regular Session

Chamber: HOUSE
Bill No.: SSB 6575
Description: FP AS AMD BY THE HOUSE
Item No.: 18
Transcript No.: 53
Date: 03-04-2004

Yeas: 96 Nays: 00 Absent: 00 Excused: 02

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, D., Simpson, G., Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Edwards, McMorris

2004 Regular Session

Chamber: SENATE

Bill No.: SSB 6575

Description: FINAL PASSAGE AS AMENDED BY THE HOUSE

Item No.: 6

Transcript No.: 59

Date: 03-10-2004

Yeas: 46 Nays: 00 Absent: 00 Excused: 03

Voting yea: Senators Benton, Berkey, Brown, Carlson, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

Excused: Senators Brandland, Deccio, Parlette

SUBSTITUTE SENATE BILL 6641

Reducing the risk of oil spills and spill damage

PROGRAM IMPACTS

The legislation was developed as a direct response to the 4,800 gallon Foss Maritime fuel oil spill that occurred on December 30, 2003 at Point Wells in Puget Sound. The legislation expands existing state authority by directing Ecology to:

- “Adopt a zero spills strategy to prevent any oil or hazardous substances from entering waters of the state”;
- Work with stakeholders to develop a report describing current statewide marine oil transfer practices and regulations for covered vessels and ships, and develop recommendations for any new authorities necessary to establish a protective regulatory system for fueling ships;
- Complete a study of when and how oil transfers should be pre-boomed, and determine what alternative oil spill prevention measures should be applicable;
- Develop a rule by June 30, 2006 placing the requirements for pre-booming and alternative measures into force; and
- Establish a process for notifying tribes of any oil spill, and ensure that facility contingency plans include measures for the protection of shellfish beds.

Note that provisions of sections 5 and 6 of the bill that would have only applied to the Washington State Ferry system are null and void due to funding not being provided in the 2004 supplemental transportation budget (see section 7 of the bill).

RESOURCE IMPACTS

The state 2004 supplemental budget legislation provided 1 FTE and \$144,000 in funding. This funding level is not adequate for the Spills Program to complete the studies and rule adoption process. Additional existing resources will be redirected in order to complete the project.

WORK PLAN

Potentially Affected Industry

Entities that may be regulated in the new rule requirements include:

- The 35 “facilities” currently regulated;
- Approximately 50-55 additional companies that provide fuel to large vessels from tank trucks; and
- A small number of additional marine facilities that fuel large vessels.

It has not been determined at this time whether the rule will place additional requirements on vessel-to-vessel oil transfer operations.

Project Timeline

Ecology will form a small, balanced committee to advise the Spills Program on the substance and process for the rule. Major steps:

- June, 2004 – Develop a detailed internal work plan to establish specific dates, initial assignments, and hiring plan;
- July 1, 2004 – Funding becomes available;
- June to August 2004 – Hire the new employee to help guide the study and rule-making process;
- Fall 2004 – Establish an advisory committee and begin stakeholder discussions;
- Fall & Winter 2004 – Complete a study of fuel oil transfers;
- December 15, 2004 – Submit a progress report with recommendations to the Legislature and Governor;
- Spring & Summer 2005 – Complete a study on how oil transfers should be pre-boomed, or (where pre-booming is not practical) determine what alternative oil spill prevention measures should be applicable;
- Spring & Summer 2005 – Begin the formal rule-making process;
- June 30, 2006 – Amend an existing Ecology rule requiring that some oil transfers be pre-boomed/have alternative measures in place; and
- Long-term – Possibly reassign the rule writer position to conduct oil transfer inspections and other related rule implementation work.

Contact person: Jon Neel – Spill Prevention, Preparedness & Response Program;

Phone: 360/407-6905; **E-mail:** jnee461@ecy.wa.gov

FINAL BILL REPORT

SSB 6641

C 226 L 04

Synopsis as Enacted

Brief Description: Reducing the risk of oil spills and spill damage.

Sponsors: Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators B. Sheldon, Oke, Spanel, Carlson, Fraser, Shin, Regala, Winsley, Kohl-Welles, Poulsen, Kline, Fairley, Jacobsen, Prentice, Haugen, Berkey, Brown, McAuliffe, Franklin, Rasmussen and Keiser).

Senate Committee on Natural Resources, Energy & Water
House Committee on Fisheries, Ecology & Parks
House Committee on Appropriations

Background: The Legislature enacted oil spill prevention and response measures in 1991 to promote the safety of marine transportation and protect state waters from oil spills. The director of the Department of Ecology (DOE) has the primary authority to oversee prevention, abatement, response, containment, and cleanup efforts for oil spills in state waters. The oil spill program requires oil spill prevention plans, contingency response plans, and documentation of financial responsibility for vessels and facilities that may discharge oil into navigable waters.

Owners and operators of onshore and offshore facilities must prepare and submit oil spill contingency and prevention plans. The plans are valid for five years and may be combined into a single document. Facilities may opt to submit contingency plans for tank vessels unloading at the facility.

Persons or facilities conducting ship refueling and bunkering, or lightering of petroleum products, are required to have containment and recovery equipment readily available according to standards adopted by DOE. In addition, any person or facility transferring oil between an onshore or offshore facility and a tank vessel are also required to have containment and recovery equipment readily available. DOE has rule-making authority to adopt standards for the circumstances under which containment equipment should be deployed.

Summary: The primary objective of the state oil spill program is to adopt a zero spills strategy and prevent the release of oil or hazardous substances from entering marine waters.

DOE's statewide plan must include a process for notifying tribes of any oil spill.

DOE must, by June 30, 2006, adopt rules for directing when a boom should be deployed. The rules apply to any person or facility conducting ship refueling and bunkering, or the lightering of petroleum products. The DOE rules must be suitable to the environmental and operational conditions of the facilities and the U.S. Coast Guard must be consulted when the rules are developed. DOE may require additional alternative oil prevention

methods such as automatic shutoff devices and alarms, extra personnel or additional containment equipment.

DOE is directed to work with stakeholders to develop a report describing fueling practices and regulations for covered vessels and ships, and report recommendations and findings to the Legislature by December 15, 2004. The report must describe the current federal and state spill prevention and response requirements and recommendations for any new authorities necessary to establish a protective regulatory system for fueling ships.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004 (except for Sections 5 and 6, which are null and void, since they were not referenced in the omnibus transportation appropriations act)

Roll Calls on a Bill: 6641 (2003-04)

Brief Description: Reducing the risk of oil spills and spill damage.

2004 Regular Session

Chamber: SENATE

Bill No.: SSB 6641

Description: 3RD READING & FINAL PASSAGE

Item No.: 13

Transcript No.: 33

Date: 02-13-2004

Yeas: 49 Nays: 00 Absent: 00 Excused:
00

Voting
yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit,
Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove,
Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser,
Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke,
Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt,
Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker,
Thibaudeau, Winsley, Zarelli

2004 Regular Session

Chamber: HOUSE

Bill No.: SSB 6641

Description: FP AS AMD BY THE HOUSE

Item No.: 51

Transcript No.: 52

Date: 03-03-2004

Yeas: 96 Nays: 00 Absent: 00 Excused:
02

Voting
yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey,
Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler,
Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox,
Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards,
Ericksen, Flannigan, Fromhold, Grant, Haigh, Hankins, Hatfield, Hinkle,
Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby,
Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott,
McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller,
Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby,
Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Rodne,
Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro,
Simpson, D., Simpson, G., Skinner, Sommers, Sump, Talcott, Tom,
Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Eickmeyer, Sullivan

2004 Regular Session

Chamber: SENATE

Bill No.: SSB 6641

Description: FINAL PASSAGE AS AMENDED BY THE HOUSE

Item No.: 5

Transcript No.: 57

Date: 03-08-2004

Yeas: 49 Nays: 00 Absent: 00 Excused:
00

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

SUBSTITUTE SENATE CONCURRENT RESOLUTION 8418

Creating a joint select legislative task force to evaluate permitting processes

PROGRAM IMPACTS

A joint select legislative task force is created to evaluate and make recommendations to the Legislature regarding permitting processes related to development regulations adopted pursuant to the Growth Management Act (GMA) and the requirements of the Shoreline Management Act (SMA). The evaluation is limited to counties that are subject to the review requirements under RCW 36.70A.215 (westside GMA counties that were larger than 150,000 in population as of 1995, and their cities greater than 50,000).

An advisory committee is created to support the task force. The committee includes several agency directors including the Director of the Department of Ecology. The task force "must invite staff" from the Departments of Community Trade & Economic Development, Ecology, and the Office of Regulatory Assistance to provide additional staff support. This implies that we will be expected to provide information upon request to the task force and advisory committee.

The report of the task force is due on January 1, 2006.

RESOURCE IMPACTS

No additional revenue or staffing was provided to implement the resolution. The Agency will provide support within its ordinary budget. This is likely to affect primarily the Shoreland Environmental Assistance (SEA) Program and Office of Regulatory Assistance staff housed within Ecology.

Neil Aaland, SEA Program, has been designated as the back-up to the Director.

WORK PLAN

Projected timeline to accomplish requirements of the bill: We are waiting for legislative staff to convene the meetings. Timelines will be driven by the workplan developed once the process is underway, and by the 1/1/06 due date.

Contact person: Neil Aaland – Shoreland Environmental Assistance Program;
Phone: 360/407-7045; **E-mail:** naal461@ecy.wa.gov

FINAL BILL REPORT

SSCR 8418

As Passed Legislature

Brief Description: Creating a joint select legislative task force to evaluate permitting processes.

Sponsors: Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Berkey, Swecker, Doumit, Schmidt, Mulliken, Parlette, Keiser, Rasmussen, Haugen and Murray).

Senate Committee on Natural Resources, Energy & Water **House Committee on Local Government**

Background: A legislative work group on permit processes has recommended the convening of a joint effort by the four legislative caucuses and the Governor, a "five corners task force," to improve state and local permitting processes.

Summary: A joint select legislative task force is established to make recommendations regarding permitting processes and report to the Legislature by January 1, 2006. It will address local development regulations of selected jurisdictions among the "buildable lands" counties and their cities over 50,000.

The task force is composed of the chairs and the ranking minority members of the Senate Committee on Land Use and Planning and the House Local Government Committee. It will invite the Governor to join it and form a "Five Corners Task Force."

An advisory committee is established to respond to requests of the task force and is composed of representatives of the Department of Community, Trade, and Economic Development (CTED), the Department of Ecology (Ecology), the Office of Regulatory Assistance (ORA), a county, a city, the business community, the environmental community, agriculture, labor, the property rights community, the construction industry, ports, and federally recognized Indian tribes.

Staff support is provided by Senate Committee Services and the Office of Program Research. CTED, Ecology, and ORA are invited to provide staff support.

Votes on Final Passage:

Senate	47	0	
House Adopted			(House amended)
Senate	49	0	(Senate concurred)

Roll Calls on a Bill: 8418 (2003-04)

Brief Description: Creating a joint select legislative task force to evaluate permitting processes.

2004 Regular Session

Chamber: SENATE
Bill No.: SSCR 8418
Description: 3RD READING & FINAL PASSAGE
Item No.: 2
Transcript No.: 24
Date: 02-04-2004

Yeas: 47 Nays: 00 Absent: 02 Excused: 00

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Thibaudeau, Winsley, Zarelli

Absent: Senators Oke, Swecker

2004 Regular Session

Chamber: SENATE
Bill No.: SSCR 8418
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE
Item No.: 18
Transcript No.: 59
Date: 03-10-2004

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Berkey, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Murray, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli